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THE PRESENT GOVERNMENT OF THE PHILIPPINES

By

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MANILA
PHILIPPINES

To My Brother,
Tendara

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PREFACE

It is the purpose of this volume to picture the present system of government in the Philippines, its basic foundations, the principles which underlie its workings, as well as the different governmental organs which have been established by the Jones Law, or as an interpretation of the Jones Law. It is not a discussion of legal provisions, but a discussion of actual facts. It is not an attempt at constitutional law but at political science.

It is confined almost exclusively to the broad framework of our central government. It does not deal with its historical development or with the provincial, municipal, or city governments. These other matters, together with a large part of the subjects discussed in the following chapters, are taken up, although in a more elementary form, in "Philippine Government" by Malcolm and Kalaw, written primarily as a textbook for high schools, which may be published in the near future.

The writer has tried impartially to present the facts about our present political institutions and practices as he found them. When, however, he is obliged to discuss their merits and demerits, he has stated nothing but his personal opinion. It is his fervent hope that such a discussion would incite further study by other students of political science and would be of no passing interest to the citizens of the Philippines themselves, who are determined to make our government—known the world over as the greatest experiment ever attempted at tropical democracy—a decided success.

The author desires to express his sincere obligation to Justice George A. Malcolm, for the permission granted him to use the materials which the Justice has collected for his Constitutional Government of the Philippines. His book on "The Government of the Philippine Islands" has, moreover, been quoted in some parts of the present volume. Professor Wilgus, of the department of Journalism, University of the Philippines, has also been kind enough to proof-read the manuscript and to offer valuable suggestions.

M. M. K.

Manila, March, 1921.

CHAPTER I

THE UNDERLYING PRINCIPLES OF THE JONES LAW

A constitution has been defined as the supreme law of the land which, among other things, outlines the framework of government. Our nearest approach to a Philippine Constitution is the Jones Law, or Philippine Autonomy Act. The organization of our central government is naturally based on this law. Yet it is misleading to rely merely on the letter of this law for a clear comprehension of our present government.

**The Jones Law
and Philippine
Government**

It is impossible to provide in a law the exact framework of a government. Its spirit and purpose, which may not be found in its body, as well as the existing institutions and national characteristics are all factors in the actual system of government which may be established. As an English writer has very well put it, constitutions are simply adjectives of which the national character is the substantive. This has happened in the establishment of all governments. It has happened with greater force in the present government established under the Jones Law.

Our present government derives its legal sanction from the body of the Jones Law, but it has been very largely influenced by its liberal spirit and purpose and by the existing institutions of the country. In fact, it is its spirit rather than its letter which is responsible for a great many laws and constitutional practices which have brought about a greater participation of the Filipino people in the affairs of their country.

In the study of the present government of the Philippines it is, therefore, absolutely necessary to know and appreciate this liberal spirit which animates the Jones Law. It will be necessary to go back to the early American policies towards the Philippines and then analyze the circumstances which later induced Congress to pass the law.

**Early American
Policy Towards
the Philippines**

There has never been any question that American policy in the Philippines has always included the ultimate extension of self-government to the Islands. Both the Republican and the Democratic parties are committed to such a program. President McKinley, the man most responsible for the acquisition of the Philippines, said in the very beginning of American occupation:

~~-----~~ "The Philippines are ours, not to exploit, but to develop, to civilize, to educate, to train in the science of self-government."

President McKinley's successor, Mr. Roosevelt, in his message to Congress on December 6, 1904, said:

"We are endeavoring to develop the natives themselves so that they shall take an ever-increasing share in their own government, and as far as is prudent we are already admitting their representatives to a governmental equality with our own. . . . If they show that they are capable of electing a legislature which in its turn is capable of taking a sane and efficient part in the actual work of the government, they can rest assured that a full and increasing measure of recognition will be given them."

Again, in 1906, he said:

"We are constantly increasing the measure of liberty accorded the islanders, and next spring, if conditions warrant, we shall take a great stride forward in testing their capacity for self-government by summoning the first Filipino legislative assembly; and the way in which they stand this test will largely determine whether the self-government thus granted will be increased or decreased."

In opening the Philippine Assembly on the 16th of October, 1907, Mr. Taft, then Secretary of War, said:

"The avowed policy of the National Administration under these two Presidents has been and is to govern the Islands, having regard to the interest and welfare of the Filipino people, and by the spread of primary, general and industrial education and by practice in partial political control to fit the people themselves to maintain a stable and well-ordered government affording equality of right and opportunity to all citizens. The policy looks to the improvement of the people both industrially and in self-governing capacity. As this policy of extending control continues, it must logically reduce and finally end the sovereignty of the United States in the Islands, unless it shall seem wise to the American and the Filipino peoples, on account of mutually beneficial trade relations and possible advantages to the Islands in their foreign relations, that the bond shall not be completely severed."

In 1908, after the Philippine Assembly had been opened, President Roosevelt, in his message, said:

"Real progress toward self-government is being made in the Philippine Islands."

"Hitherto the Philippine Legislature has acted with moderation and self-restraint and has seemed, in practical fashion, to realize the eternal truth that there must always be government, and that the only way in which any body of individuals can escape the necessity of being governed by outsiders is to show that they are able to restrain themselves, to keep down wrongdoing and disorder. The Filipino people, through their officials, are therefore making real steps in the direction of self-government. I hope and believe that these steps mark the beginning of a course which will continue till the Filipinos become fit to decide for themselves whether they desire to be an independent nation. . . . All we can do is to give them the opportunity to develop the capacity for self-government. . . . We can not give them self-government save in the sense of governing them so that gradually they may, if they are able, learn to govern themselves."

Ex-Governor James F. Smith, in an article in the *Sunset Magazine* of December, 1911, said:

"The evolution of a government by Americans assisted by Filipinos into a government of Filipinos assisted by Americans, and the education and preparation of the people for popular self-government, was the broad policy of President McKinley, of President Roosevelt, of Governor Taft, of Governor-General Wright, of Governor-General Ide, and of all their successors. It is the policy to-day."

The policy enunciated in the foregoing utterances of Presidents and Governors-General has been adhered to in the Philippine Islands. Step by step institutions of self-government were given to the people. At first, municipal governments were established; then came provincial governments; the Filipinos were then given participation in the Central Government with the appointment of Filipino members in the Commission and in the Supreme Court; then an elective Lower House was established composed entirely of Filipinos.

With the coming of the Democratic Party into power, this policy of extending self-government was more rapidly pursued. In October, 1913, President Wilson appointed a majority of Filipinos in the Commission. In explaining his action, President Wilson said:

"I believe that in this way we shall make proof of their capacity in counsel and their sense of responsibility in the exercise of political power, and that the success of this step will be sure to clear our view for the steps which are to follow. Step by step we should extend and perfect the system of self-government in the Islands, making test of them and modifying them as experience discloses their successes and their failures; so that we should more and more put under the control of the native citizens of the archipelago the essential instruments of their life, their local instrumentalities of government, their schools, all the common interests of their communities, and so by counsel and experience set up a government which all the world will see to be suitable to a people whose affairs are under their own control."¹

The step taken by President Wilson was a great one. The Philippine Commission was a more powerful body than the Lower House, for it had absolute control over the non-Christian parts of the Philippines, which comprised nearly one-third of the Philippine Archipelago. The Governor-General, although a member of this Upper House, had no veto power, a fact which added more to the power of this body. With the control of the Filipinos in the two branches of the Legislature, the Upper House having both legislative and executive duties, autonomy may be said to have been established in the Philippine Islands. The prophecy of ex-Governor Smith of the evolution of a government by Americans assisted by Filipinos into a government of Filipinos assisted by Americans was fulfilled. The only disadvantage of the situation was that the arrangement was purely administrative in character. Because the Filipino Commissioners were appointed by the President of the United States and not elected directly or indirectly by the people, the Filipinos could not efficiently make them responsible to them.

After three years of experiment with a Filipino-controlled legislature, another more decisive step was taken in the direction of self-government. This was the enactment of the Jones Law, often called "The Philippine Autonomy Act". The Jones Law may be said to be the culmination of the different steps taken by the American Government from the time of President McKinley, when he enunciated the policy of teaching the Filipinos the science of self-government.

¹ President Wilson's message to congress on December 2, 1913.

**Autonomy under
the Jones Law**

The Jones Law was first reported to Congress on August 26, 1914. Congressman Jones, in reporting the measure, explained its objects, in part, as follows:

"Every Philippine administration has at some time or other put forward the statement that as soon as it had been demonstrated that the inhabitants of the islands were capable of self-government complete independence should be granted to them."

"This opportunity the proposed bill will grant them. It creates such a degree of autonomy as will enable them by demonstrating their capacity for self-government to hasten the date for final separation between the United States and the Philippines."

The object, therefore, of the Bill, according to its author, was to give to the Filipinos all the opportunity possible for the exercise of self-government, in order that they might justify their claim for it. But the Jones Law, as every one knows, does not only extend in a very large measure the autonomy of the Filipinos, but also promises them in its preamble that, when through the exercise of the powers granted them they shall have shown that a stable government can be established in the Philippines, independence shall be granted them.

When the Bill was first presented there was opposition on the part of the Republicans to the preamble containing the promise of independence. But most of the other legislative features of the bill were approved by even the Republican members of the House. The report on the Jones Bill of Republican members of the House Committee on Insular Affairs stated that they—

"would be glad to extend to them (the Filipinos) from time to time as may be justified a larger measure of self-government. Many of us have no objections to an elective senate or to some of the other changes in existing law provided in the bill."

In 1916 when a strong movement was initiated in the United States for the passage of a more radical measure, the Clarke amendment, the Republicans also advanced their position and advocated a more liberal measure for the Philippines. They would now accept the Jones Bill introduced in 1914, including its preamble, which was similar to the present Jones Law, only with more liberal provisions.

In dissenting from the position of the majority in the House Insular Committee on the Clarke amendment, the Republicans, on April 12, 1916, said:

"The minority entirely agree with the majority that the Philippines should be given a new fundamental law granting to the people a larger measure of self-government. The minority would gladly support the passage of the Jones Bill without the preamble. They would even support the Jones bill with the preamble as a substitute for the Senate bill with the Clarke amendment."

In pursuance of such an attitude the Jones Law in exactly the same manner in which it passed the Lower House in 1914 was repassed practically by unanimous vote. As is commonly known, the Senate showed more radical tendencies toward the Philippines, for it passed the Clarke amendment. The Conference report presented to both Houses was adopted by the two Houses practically without opposition, and thus we have the Jones Law now. It is a measure approved, therefore, by both Republicans and Democrats.

Mr. C. B. Miller, who had opposed the bill in 1914, on August 18, 1916, switched in favor of the bill, and said:

"I am willing to give the bill a full, fair and generous trial aiding in every possible way the success of the enterprise."

Another Republican member, this time of the Upper House, Senator Colt, said:

"The bill, in part, is simply a confirmation of our settled line of policy to install in the Philippines, step by step, the American system of self-government."

While there were some questions expressed as to the time when the Filipinos should sever their relations from the United States, there was hardly dissenting vote on the policy of the bill to extend autonomy in the Philippines. Thus another Republican Senator, Mr. Nelson, said:

"It seems to me that the proper course is to give those people a high, fair, and good degree of self-government, but to let them remain under the Stars and Stripes as a part of the domain of the United States of America."

So much for the Republican support of the bill. We shall learn the real extent of the autonomy granted in the bill from the initiators of the measure themselves, the Democratic leaders.

Congressman Jones, on August 18, 1916, explained the extent of the autonomy as follows:

"It virtually places it in the power of the Philippine people to say when they shall receive the full substance of self-rule and independence. That they can and will establish a stable government upon a firm and enduring basis I have never permitted myself to doubt; and they may confidently rely upon the plighted word and good faith of the American people that when these conditions are met they will be given complete independence. For these reasons I entertain the hope—indeed, I firmly believe—that the provisions of this bill which relate to the future political status of the Philippine Islands will meet the approval of a vast majority if not of all of their educated and thinking people. It is because of my abiding faith in their intelligence and patriotism that, for one, I am willing to commit their destinies into their own hands and keeping."

"The governmental features of this bill will work many important changes in the organic law of the Philippines. Without materially altering the structure of the present government, it practically confers all legislative power upon that people, thus giving to them the control of their domestic affairs in all essential particulars."

In another part of the speech, Mr. Jones referred to the bill as a covenant between the American people and the Filipino people. He said: .

"When the President of the United States affixes his signature to this already too long-delayed measure of justice and right, it will mark an epoch in the history of this Nation as well as in that of the Philippine Islands, for the pages of the annals of the world will be searched in vain for its counterpart. For it not only bestows upon the Philippine people a measure of self-government such as they have never enjoyed under the sovereignty of this or any other nation, but it establishes what to them is dearer than all else—the everlasting covenant of a great and generous people, speaking through their accredited representatives, that they shall in due time enjoy the incomparable blessings of liberty and freedom."

The purpose of the measure, as explained in its preamble, is—

"to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing their exercise of the rights of sovereignty by the people of the United States, in order that, by the use and exercise of popular franchise and governmental powers, they may be the better prepared to fully assume the responsibilities and enjoy all the privileges of complete independence."

That the Filipino people also expected a substantial amount of autonomy under the Jones Law was shown by the attitude of

their representative in Congress during the discussion of the measure. Resident Commissioner Quezon, on August 18, 1916, said on the floor of Congress:

"Heretofore we have been the least and the last factor in the Philippine affairs. Hereafter we shall be the first and most important factor. Heretofore things were done by the Philippine government not only without the consent but on many occasions against the strong opposition of the Filipino people. Hereafter nothing will be done without our consent, much less in defiance of our opposition. So I say, Mr. Speaker, this bill is a long and very decisive step toward the complete emancipation of the Filipino people. It marks an epoch in our national history. We are convinced that the promise of independence contained in the bill will be faithfully fulfilled, for we know that we are dealing with a Nation in the truest sense jealous of its honor and its good name."

In explaining the meaning of the Jones Law to the Filipino people, Governor-General Harrison, on September 1, 1916, said:

"It should never be possible, and it will now never be so here, for an executive to ride ruthlessly over the people he is sent here to govern, without due regard for their sentiments and due consideration of their wishes."

Such were the manifest purposes and intention of the Jones Law as we gathered them from the utterances of those who were responsible for its passage. Henceforward the Filipino people are to enjoy the largest measure of autonomy compatible with the exercise of American sovereignty. They are no longer to be ruled "ruthlessly" by a Governor-General in defiance of their wishes and desires. It is their "counsel and experience" which will be followed in the governance of the Philippines, rather than the "counsel and experience" of the Americans.

Let us see to what extent and in what way have those purposes and intentions—the underlying principles of the Jones Law—been incorporated in the actual government established in the Philippines.

CHAPTER II

THE GOVERNOR-GENERAL

The learned English scholar, Mr. Bagehot, in speaking of the English Government said that there are two parts in that government: one is the ornamental and ceremonial part, in whose name the government is carried on—the King of England, theoretically an absolute ruler; and the other is the active part, the one which really rules, which advises the ceremonial part in practically all the governmental work that it does—the House of Commons directly or through the cabinet. The Philippine government, in a small way, is approaching a similar arrangement.

The Governor-General's Peculiar Position

The Governor-General is vested by law with the executive power, but he rarely acts on matters of domestic concern, except with the advice of the Cabinet or Council of State. The guide for this exercise of governmental power is the spirit and purpose of the Jones Law, which is, as we have seen, to grant the Filipinos the largest amount of autonomy compatible with the exercise of American sovereignty. In the language of Secretary of War Baker, "the functions of government have been taken over by the people of the Islands themselves, leaving only the tenuous connection of the Governor-General".

The Governor-General is appointed by the President of the United States with the consent of the American Senate. He holds his office at the pleasure of the President. His position is considered a political one from the standpoint of American politics; that is, upon a change of party in the United States, a new governor-general is usually appointed. His salary is fixed by the Jones Law at ₱36,000 (\$18,000) and he lives in the historic Malacañang Palace.

The Jones Law confers the veto power on the Governor-General.

The Veto Power

Upon the passage of a bill or joint resolution it is sent to the Governor-General for signature. If he does not sign it or expresses his disapproval of it within twenty days (Sundays excepted) after it is presented to him, then it will automatically become a law. If by reason of the adjournment of the Legislature, the Governor-General is unable to return it with his disapproval to the Legislature, then it becomes a law unless vetoed by him within thirty days after adjournment. A vetoed bill after its return to the Legislature may be reconsidered by the Legislature and upon a two-thirds vote of the members elected to each House it can be again sent to the Governor-General. In case the Governor-General still refuses to approve it, then he will transmit it to the President of the United States who will have the final say on the matter.

As a matter of policy, however, there are several practical limitations on the exercise of the veto power. The creation of an entirely Filipinized legislature under the Jones Law undoubtedly intended to leave in the hands of the Filipinos ample legislative powers.¹ The veto power must, therefore, be liberally exercised lest the legislative autonomy thus granted be materially curtailed in practice. In the use of the veto, the Governor-General has really two capacities. When he vetoes a bill which he believes is impairing the exercise of the rights of American sovereignty he is exercising that power in obedience to the spirit of the Jones Law, as the representative of the American Government in the Islands; but when he vetoes a bill of purely domestic concern he is considering himself a part of the legislative machinery and, unless his action is supported by an overwhelming public opinion, it will mean a material loss of the legislative powers granted to the people.

These considerations undoubtedly are the reasons why the Governor-General has not often exercised his veto power. Governor-General Harrison vetoed only three bills and that was done during the first year of the Jones Law. Since that time he has not registered any veto.²

¹ See Congressman Jones' statement on p. 7

² Just before he left the Philippines, in March, 1921, Governor Harrison vetoed two bills, one providing for compulsory education for children in the Mountain province and the other for the investment of sinking funds of friar lands estates, the bonds of which are held by American investors.

The development of the veto power in the Philippines has thus taken a different trend from that of the veto power in the United States, after which the veto provisions of the Jones Law were patterned. The original purpose of the presidential veto power in America was not to make the President an indispensable part of the legislative machinery. On the contrary, the framers of the American Constitution were so enamored with the theory of the division of powers that they would not have dared have the executive actively participate in legislation. The veto provision was included "for the sake of protecting the Constitution, and, in particular, the executive, from Congressional encroachments."³ Consequently, the veto power was not intended to be often exercised, and in the early history of America it was very sparsely used. Washington used the veto only twice. It was never used by John Adams, Jefferson, J. Q. Adams or Van Buren, who served full terms; or by W. H. Harrison, Taylor, Fillmore, or Garfield. In signing bills presidents have sometimes indicated objections which Congress has afterwards remedied by supplementary legislation.⁴

**Veto Power in
the Philippines
and in America**

The use of the veto in America as an active part of legislation is of but recent date. It took place only after the transformation of the presidency from a non-representative institution into a representative one. The Presidential veto has succeeded because, quoting Bryce, "the President, being an elective and not hereditary magistrate, is responsible to the people, and has the weight of the people behind him". The veto as an institution has always failed or has become obsolete whenever it is exercised by an authority not responsible to the people. The King of England, ever since the time of Queen Anne, more than two hundred years ago, has never exercised it altho theoretically he has still this power.

But the better analogy is not between England and the Philippines. England is an independent country and her Parliament is a sovereign body. The closer analogy is between the Philippines and an English self-governing colony. In English self-governing colonies, the Governor represents the sovereignty of the mother country. He has, like our

**Veto Power in
the Philippines
and in English
Self-Governing
Colonies.**

³ Bryce, *American Commonwealth*, p. 59.

⁴ *Cyclopedia of American Government*, p. 615.

own Governor, veto power in legislation. Quoting the rules and regulations issued by the colonial office on legislative councils and assemblies in English self-governing colonies, "in every colony the Governor has authority either to give or to withhold his assent to laws passed by the other branches or members of the Legislature, and until that assent is given no such law is valid or binding". The colonial legislature, like our own legislature, is limited by a constitution, equivalent to our Jones Law. The extent of the autonomy granted the English self-governing colonies and that given the Filipinos under the Jones Law is strikingly similar. In English self-governing colonies, the rule is that, in all matters of local concern, the local authorities should be given a free hand, and in matters of imperial concern, the Metropolis, represented by the Governor, should act. In the Philippines the purpose is to give the Filipinos as large a control over their domestic affairs as will not impair the exercise of American sovereignty. In pursuance of the English principle, an English Governor has refrained from vetoing legislation of purely local concern. Yet it must not be supposed that he is not often tempted to use his veto power when he sees faulty legislation. The mode of correcting faulty legislation is by suggesting its alteration by subsequent legislation.

We cannot, therefore, expect our Governor-General to use his veto power with such frequent effectiveness as it is being used in America. The practice should be patterned more after the English fashion. The success of the exercise of the veto power in America has been possible only by the President's popular representation: he is the people's national representative. His veto is the people's own veto. The case of our Governor-General is rather different. He represents external control, foreign to, and not representative of, the people. Unless advised by responsible Filipino counsellors or by an overwhelming public opinion, his veto cannot be said to be the people's veto, consequently it is being very seldom used.

The Governor-General is the commander-in-chief of all locally created armed forces and militia. Altho the Constabulary is under the Department of the Interior, yet by virtue of this provision, the Governor-General actually exercises more control over it.

Commander-in-Chief of the Militia and the Constabulary

This is only natural. The Governor-General is the representative of American sovereignty in the Philippines, and sovereignty implies force; hence, he must have under his control and direction the agents of force. In times of grave disorder, when the sovereignty of the United States must assert itself, the Governor-General will naturally take immediate charge of the locally armed forces of the country. In cases of grave danger, he can call upon the commanders of the military and naval forces of the United States in the Philippines. He may, when the public safety demands it, even suspend the privileges of the writ of *habeas corpus* or place the Islands or any part thereof under martial law. When he decides to do this, however, he must notify the President of the United States at once and advise him of all the facts in the case.

The Governor-General is by law granted general supervision and control of all the departments and bureaus of the Government of the Philippine Islands. In addition, he is charged by law with the exercise of various specific functions.

Specific Functions of the Governor-General

1. The Governor-General appoints all important Philippine officials, with the exception of the Vice-Governor, the Justices of the Supreme Court, and the auditors. The consent of the Philippine Senate is, however, necessary except in the case of appointive senators and representatives.

2. He has the power to remove officials and to order an investigation of the conduct or of any action of persons in the government service. In connection with this investigation he may designate an officer, committee, or any person who shall conduct the investigation.

3. He may reserve from settlement or public sale and for specific public uses any public or private land of the Philippine Islands, the use of which is not otherwise provided by law.

4. He determines when it is necessary or advantageous to exercise the right of eminent domain in behalf of the Government of the Philippine Islands. If he decides to do this he advises the Attorney-General to institute condemnation proceedings in the court having proper jurisdiction.

5. He is authorized to grant to convicted persons reprieves or pardons, conditional or unconditional, as well as to suspend

sentences without pardon, to remit fines, and to order the discharge of any convicted person on parole.

6. He is empowered to deport from the Philippine Islands any subject of a foreign power after a proper investigation in which the person concerned is given a chance to defend himself.

7. He is the department head of the Bureau of Civil Service and the Bureau of Audits. He may order an examination of the books and accounts of the Auditor and Treasurer, and submit the report of his financial investigations to the Secretary of War.

8. He can, with the approval of the Philippine Senate and for the purposes of protection and the keeping of peace, order the concentration of the inhabitants from outlying *barrios* in smaller communities.

9. He has supervision of the issuance of passports to citizens of the Philippine Islands and the United States who want to go abroad.

10. He takes charge of all extradition cases.

11. He supervises the correspondence touching the foreign relations of the Philippines, such as correspondence with the Bureau of Insular Affairs, the United States Consuls abroad, and the foreign consuls in the Philippine Islands.

12. He confirms the elections of insular and provincial officials.

The Vice-Governor is appointed by the President of the United States with the consent of the United States Senate. The Vice-Governor is also by the Jones Law head of the Department of Public Instruction and performs other duties assigned him by the Governor-General. He acts as Governor-General in case of a vacancy in this office. Should both the Governor-General and the Vice-Governor be unable, for some reason, to perform the duties of the office of Governor-General, the President of the United States names the head of one of the executive departments to act temporarily as Governor-General.

The Governor-General and the Vice-Governor are the only two Americans holding important political positions in the Philippine government.

CHAPTER III

THE REORGANIZATION OF THE EXECUTIVE DEPARTMENTS

There has never been any doubt that under the Jones Law the Filipino people were to have complete control of legislation subject only to the Governor-General's veto power and, in a few instances, to the final approval of the President of the United States. The provision for an elective legislature cannot mean anything but that. The point disputed at the time the Jones Law reached the Islands was how much executive power was intended to be given the Filipino people. It is true that the Jones Law gives the Philippine Legislature power to "increase the number or abolish any of the executive departments, or make such changes in the names and duties thereof as it may see fit" and to provide "for the appointment and removal of the heads of the executive departments by the Governor-General" (sec. 22, Jones Law); so that the Legislature might pass a law requiring the appointment of executive secretaries to be subject to the Senate's confirmation (as was afterwards done). But in the same section of the Jones Law it is also provided "that all executive functions of the government must be directly under the Governor-General or within one of the executive departments under the supervision and control of the Governor-General".

Executive Autonomy under the Jones Law

It was, however, clear that even under these provisions it was the intention to give the post of departmental secretaries (except the secretaryship of public instruction) to the Filipinos. Now the question was, Would the Filipino executive heads appointed by the Governor-General, even with the consent of the Senate, be responsible to the Governor-General or to the people or their representatives? It is true that the appointment of department secretaries, like all others made by the Governor-

General, might require the consent of the Philippine Senate; but under the American federal system the President's cabinet is also appointed with the consent of the Senate of the United States, and yet the American cabinet members are in reality mere agents of the President. They are not responsible to Congress, and the Senate's consent simply comes as a matter of form. The executive power under the Jones Law is, as in the American government, vested in the chief executive, the Governor-General. Therefore, it was, in the opinion of some, more than likely that the heads of the executive departments would be mere agents of the chief executive. It would not mean further extension of power to the Filipino people.

But the liberal constructionists triumphed. We must get the answer from the spirit and purpose of the act, they said. The purpose of the act is to give to the Filipinos as large a control of their affairs as can be given them without impairing the rights of sovereignty of the United States. The mere giving of two branches of the legislature would not make the government an autonomous one if the people were not given a hand in the execution of the laws and in the administration of the government. Considerable executive power must, therefore, be given to the people. This interpretation appears to be in consonance with Governor Harrison's statement given on September 1, 1916, in which he said that under the Jones Law no Governor-General could rule ruthlessly over the people and that "an executive should consult the people, through their representatives, as to who shall serve them in office". Inasmuch as the cabinet members are not elected by the people, they must be appointed only after consultation with members of our legislature, "the representatives" of the people. If that be the case, then a certain amount of responsibility of the cabinet to the legislature and indirectly to the people is assured.

**Four Reasons for
the Reorganization
of the Executive
Department.**

There were several reasons why the reorganization of the executive departments was imperative. In the first place, the Jones Law authorizes such reorganization, and it was necessary to ratify in the statute books of the Philippines the new executive power granted the Filipinos to make the departmental secretaries responsible to the Legislature. In the second place, it was urgent that there be a more logical and scientific

regrouping of bureaus and offices. This need had long been felt even before the passage of the Jones Law and for that purpose the Emergency Board provided in the Appropriation Law of 1915 was authorized to act as an efficiency board "to investigate and analyze as minutely as possible the organization of the bureaus of the Insular Government for the purpose of determining the utility of each of them, the possibility of their improvement by eliminating all duplication of work * * * and in general indicating such changes in the direction and organization of the bureaus as will tend to simplify the system of work followed and result in economy and increased efficiency". In the third place, it was necessary to provide for a harmonious action and coöperation between the executive heads and the Legislature. And in the fourth place, it was felt that the new department heads should have more authority and power over the offices and bureaus under them.

These were on the whole the problems which were met by the Reorganization Act.

The Reorganization Act, as finally passed (Act No. 2666, as amended by Act No. 2803, and incorporated as Chapter V in the Administrative Code) provides several means whereby the responsibility of the executive heads to the legislature can be effected. The secretaries of departments, excepting the Secretary of Public Instruction, are appointed at the beginning of each legislature and with the consent of the Philippine Senate instead of for good behavior as before. This will, by inference, mean that the executive heads are to be appointed after each triennial election, and that they are to be chosen in obedience to the popular will as expressed in such election. Members of the Legislature can become at the same time cabinet heads. It is true, however, that because of the provision of the Jones Law, prohibiting members of the legislature from occupying positions created by them, no cabinet post was open to a member of the Legislature except the Secretaryship of the Interior, and this was later filled by a senator; but in the subsequent elections all the cabinet posts, if deemed necessary, could be filled by legislative members. Secretaries of departments may be called by either of the two

Cabinet Responsibility to the Legislature.

Houses of the Legislature for the purpose of reporting on matters pertaining to their departments. The importance of this should not be overlooked. As expressed by Senator Palma, this provision "may not look like very much on paper, but in reality it signifies a great deal. The department heads will not only have to give the information required of them, but being often subjected to minute interrogation they will have to explain and defend their official acts. If the Houses can demand of them that they give an account of their official acts, they are responsible to the Houses, though ultimately responsible to the Governor-General". Again, only "a citizen of the Philippine Islands," thirty years of age who has resided in the Islands continuously during three years next preceding his appointment, can be appointed. This means that only Filipinos can become secretaries of departments, for an American citizen is not necessarily a Filipino citizen.

"The fundamental theory of this bill" as expressed by Speaker Osmeña, in explaining his vote on the Reorganization Law, "is that, inasmuch as the country must exercise all the powers conferred upon it by the Jones Act, without sterile vacillation or cowardly renunciation, the departmental direction of the administrative activities should, so far as possible, be in the hands of Filipinos. For this reason the Chief Executive has ceased to be a departmental head in the sense in which he used to be, and the Secretary of Public Instruction, who is not responsible to the Philippine Legislature, will, under the new plan, have no executive functions but those assigned to him by the Congress of the United States. Neither the Governor-General nor the Secretary of Public Instruction will perform the duties of any departmental office belonging to other Secretaries, during the absence or temporary incapacity of the latter. This distribution of the executive power is in accordance with the legitimate desires of the people and involves a frank determination to assume the responsibilities of a real and ample autonomy.

"It will inaugurate a régime of publicity. The public problems will be treated, not in the dead form of written indorsements and in the privacy of the office, but face to face, in a direct and personal manner, in the Senate or in the House of Representatives. There will, finally, come about between the Legislature and the Executive a reasonable intelligence, not hidden and clandestine,

but open, subject to the vigilant action of the people. The setting aside of unjustified antagonism as well as renunciation by a clear definition of each of the coordinate powers will correct certain defects which have hitherto seemed inevitable under the so-called presidential or congressional system".

Acts 222 and 1407 of the Philippine Commission, which were responsible for the organization of the executive departments up to 1916, left a great deal to be desired in the way of a logical and scientific arrangement of bureaus. The departments, as created by the first Act, were denominated the Department of the Interior, Department of Commerce and Police, Department of Finance and Justice, and Department of Public Instruction. "The mere mention of the names given to these departments," said Senator Palma, "shows that organization to be theoretically defective. No country in the civilized world has organized a department of commerce and police, because commerce and police involve completely contrary and antagonistic ideas. The commerce is essentially pacific, while the police is essentially warlike. Nor is it good logic to join finance and justice, because, as the chairman of the select committee which has had this bill under examination said very well yesterday, finance and justice do not imply homogeneous ideas, nor do they include identical functions; on the contrary, our experience leads us to affirm that the jurist does not always have a thorough knowledge of finance, but that in the majority of cases lawyers are the poorest financiers of the world, at least so far as the management of their own interests is concerned.

**The Reorganized
Departments**

"Act No. 1407 reorganized the departments and bureaus and offices of the Government, abolishing certain bureaus and offices and creating others in their stead.

"This organization was not better than the previous one, because under it bureaus whose activities were very dissimilar were kept in the same department. In the Department of the Interior, the Bureau of Health remained side by side with that of Lands and the Bureau of Agriculture with that of Quarantine Service. In the Department of Commerce and Police the Constabulary continued side by side with the Bureau of Public Works and the Bureau of Posts together with that of Port Works. The Department of Finance and Justice still performed its legal

functions at the same time as the work of collecting customs dues and internal revenue taxes. The Department of Public Instruction continued to solve educational problems and have charge at the same time of the Bureaus of Supply and Printing, a rare combination, indeed."

In the reorganization of the departments, the plan of the Efficiency Board was chiefly followed. Instead of the old four departments there were to be six departments to correspond to "the six principal purposes which a fairly well organized government has to accomplish, to wit:

(1) "The political direction of the various local administrative units, such as departments, provincial and municipal governments, and special governments"—The Department of the Interior;

(2) "The guardianship of the State over the mental development and physical welfare of the citizens"—The Department of Public Instruction;

(3) "The collection of the public revenues and administration of the finances and business of the government"—The Department of Finance;

(4) "The enforcement of the law and maintenance of order and safe-guarding of the citizens and their rights"—The Department of Justice;

(5) "The guardianship in connection with the preservation of the natural resources and the development of its sources of wealth"—The Department of Agriculture and Natural Resources; and

(6) "The carrying out of such work and services as can not be performed by private citizens, conducive to the common welfare and public prosperity"—The Department of Commerce and Communications.

**Departmental
Control**

We have stated that the fourth reason for the reorganization was to give greater control and power to the department heads. Heretofore, each bureau was almost a department by itself. It used to send its estimates directly to the Legislature through the Executive Secretary and the department head had almost nothing to do with it. It had great power of making regulations. The control of the department head was very slight. The Reorganization

Act, therefore, as amended by Act No. 2803 (section 79-*c* of the Administrative Code) provides that the department head shall have direct control, direction, and supervision over all bureaus and offices under his jurisdiction and may, any provision of existing law to the contrary notwithstanding, repeal or modify the decisions of the chiefs of said bureaus or offices when advisable in the public interest.

Even in the matters of appointment and removal and the enactment of regulations, the department head has been given control. He has the power "to promulgate all rules, regulations, orders, circulars, memorandums, and other instructions" for the "proper working and harmonious and efficient administration of each and all of the offices and dependencies of his department". Chiefs of bureaus can promulgate circulars of information or instructions only upon authorization by the department head. The department head also, upon the recommendation of the chief of the bureau or office, has the power to appoint all subordinate officers and employees whose appointment is not expressly vested by law in the Governor-General. He may remove or punish them except as especially provided otherwise in accordance with the Civil Service Law. The department head also may change the distribution of the employees or subordinates among the several bureaus and offices.

Under the former executive organization the Governor-General was a department secretary himself, and had under his control the Executive Bureau, besides the Bureau of Audits and the Bureau of Civil Service. Under the new law the Executive Bureau was transferred to the Department of the Interior, with the provision that the foreign correspondence and the giving of passports would be retained in the Governor-General's office.

**The Executive
Departments
and the Gov-
ernor-General**

All executive functions of the Philippine government, as provided by the Jones Law, are subject to the supervision and control of the Governor-General, and it was through liberal interpretation on the part of Governor Harrison that a great deal of the control and supervision of the departments was delegated to the other department heads. Section 74 of the Administrative Code as amended states, after a repetition of the Governor's ultimate and supreme executive power, that "the departments are established for the proper distribution of the work of the

Executive, for the performance of the functions expressly assigned to them by law, and in order that each branch of the administration may have a chief responsible for its direction and policy. Each department secretary shall assume the burden and responsibility of all activities of the government under his control and supervision."

There is in each department an under secretary to aid the secretary of the department in the performance of his duties. The under secretary holds his office during good behavior, for unlike the secretaryship there is no provision for a periodic renewal. He performs the duties of the secretary in the latter's absence. Upon the inability of both the secretary and the under secretary to act, the Governor-General may temporarily designate a secretary or under secretary of another department to perform the duties.

Besides the six regular departments of the government, for administrative purposes, there are four other officials who have departmental authority over the offices under them. They are the Governor-General, who has departmental authority over the Bureau of Audits, the Bureau of Civil Service and over all other offices and branches of the service not assigned by law to any department; the President of the Senate and Speaker of the House of Representatives, who are department heads for the officers and employees of the Senate and the House, respectively; and the Chief Justice of the Supreme Court who is the department head of employees in the Supreme Court.

The following are the bureaus and offices under their corresponding departments:

OFFICE OF THE GOVERNOR-GENERAL.

Bureau of Audits
Bureau of Civil Service
Philippine National Guard

DEPARTMENT OF THE INTERIOR

Bureau of Non-Christian Tribes
Philippine General Hospital
Board of Pharmaceutical Examiners and Inspectors

Boards of Medical, Dental, and Optical Examiners
Board of Examiners for Nurses
Executive Bureau
Philippine Constabulary
Commissioner of Public Welfare
Cities of Manila and Baguio
Provincial and Municipal governments.

DEPARTMENT OF PUBLIC INSTRUCTION.

Bureau of Education
Philippine Health Service
Bureau of Quarantine Service

DEPARTMENT OF FINANCE.

Bureau of Customs
Bureau of Internal Revenue
Bureau of Treasury
Mint of the Philippine Islands
Bureau of Printing

DEPARTMENT OF JUSTICE

Bureau of Justice
Courts of First Instance and Inferior Courts
General Land Registration Office
Public Utility Commission
Philippines Library and Museum
Bureau of Prisons

DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

Bureau of Agriculture
Agricultural Colonies
Bureau of Forestry
Bureau of Lands
Bureau of Science
Weather Bureau

DEPARTMENT OF COMMERCE AND COMMUNICATIONS.

Bureau of Public Works
Bureau of Posts
Bureau of Supply
Bureau of Commerce and Industry
Bureau of Labor
Bureau of Coast and Geodetic Survey

The Cabinet

The heads of the six departments constitute the cabinet. Formerly, by an executive order of the Governor-General, it acted as his advisory board. It met once a week for the discussion of departmental measures. With the creation, however, of the Council of State, the Cabinet, as a unit, ceased to act as an advisory body of the Governor-General.

CHAPTER IV

THE COUNCIL OF STATE

The mere name of "Council of State" does not give any correct idea as to its nature and organization. A review of different councils established from the earliest time to the present will show us the diverse nature, functions, and influences that they have had.

Nature of a
Council of State

England must have been the originator of government by council; for at no time in her history did the English King rule without the help of some council. Beginning with the "The Witenagemot," which advised the early Teutonic Kings, to the establishment of the modern cabinet, England has experimented with all sorts of councils, differing in names and power. Some of them exercised not only advisory functions but even executive, legislative, and judicial powers.

The present Council of State of France, once a powerful body, is now nothing but an administrative tribunal, the court of last resort in all administrative cases. In Denmark and the Netherlands the Council of State corresponds to the cabinet, and in fact is the cabinet. In Switzerland, the Federal Council performs both executive and legislative duties, but, unlike the cabinets of England and the English colonies, is a non-partisan body. In Japan the Privy Council is the highest constitutional adviser of the Emperor. In Canada, the Privy Council, so-called, is the cabinet. In the other English self-governing colonies "Privy Council" and "cabinet" are indiscriminately used for the same thing.

In other words, councils of state have had as many and varied natures as there have been kinds of governments. It is the cabinet in some countries, while, in others, it is a mere advisory body. The only distinguishing characteristic of councils of state is that they are all established for the discussion of great affairs of state.

The Council of State which has developed in the Philippines is, as we shall see, quite different from any of the above councils. It has not been an original creation, by any means; nor is it a servile imitation of foreign institutions. It is rather the result of peculiar circumstances and conditions. It is rather a recognition of established facts and conditions called by a name which may create an entirely different impression in the popular mind. Its nearest approach in other countries is the cabinet itself or the executive council of self-governing English colonies; for it is nothing but our cabinet enlarged.

Need of a Common Counsel in the Philippines.

We have discussed the intent and spirit of the Jones Law which is to grant the Filipino people the largest amount of self-government compatible with American sovereignty and to create a government in which the "counsel and experience" of the people will play the greater part. Now, what are the means or instrumentalities by means of which the Filipinos as a people can exercise that power of self-government and can give their "counsel" in the government of their country?

Heretofore, when there was only one governmental organ responsible to the Filipinos, the Philippine Assembly, everybody looked to this organization as the faithful exponent of the ideals and aspirations of the Filipino people. It represented the national "counsel" of the people. Its Speaker was considered the most prominent Filipino official, for he exhibited the double representation of his district and of the entire assembly. The Filipino people looked to the Speaker for the success or failure of any part they were taking in the government.

Under the Jones Law two other factors or instrumentalities of government were given to the Filipinos; to the lower elective house was added an elective senate, and the Philippine Legislature was given the power to reorganize the executive departments, with the exception of the Department of Public Instruction. This latter provision has been interpreted as meaning that henceforward all the heads of departments should be Filipinos, with the exception of the Secretary of Public Instruction. If the new autonomy meant anything, it was that these three organs of government, the Lower House, the Upper House, and the Filipino Executive heads, should be responsible mainly

to the Filipino people instead of to the President of the United States.

The fundamental defect of the Jones Law is the absence of responsible and undivided leadership in these three organs of government and the lack of one single body which can properly represent and effectively carry out the "counsel" of the nation. Five years ago upon the passage of the Jones Law the writer called attention to that urgent need. The Filipino elements in the government composed of the secretaries of departments and the houses of the legislature must have a coordinate understanding, a common leadership. To repeat the writer's statements at the time, "they must collectively possess harmony of action and effective responsibility to the people".

"These qualities should exist in all governments, but particularly in a governmental organization still dependent on a foreign flag. While we remain under American sovereignty we must have complete harmony of action and community of purpose in all the governmental organs that may be given us; and lest these organs be used arbitrarily they must be made amenable to public opinion and responsible to the people.

"There is an excuse in America for the relatively greater separation and independence of the legislative and executive departments and that is the responsibility of the Chief Executive to the people. The secretaries of departments are responsible to him directly and not to Congress, for he is in turn directly responsible to the people. The peculiar situation of the Philippines demands the adoption, to the fullest extent practicable, of the opposite system. The Governor-General and the Vice-Governor will apparently still remain Americans, representatives of a foreign government and sovereignty, and responsible to America and not to us. If there are to be checks and balances here, do not let bodies of Filipinos check each other, which will naturally result in friction, but unite the Filipino department heads and the legislature into one harmonious whole, make them responsible to the Filipino people, and let the Governor and the Vice-Governor do the 'checking' alone. There must be created, by law, if possible, through legal fiction, if we must, a council of Filipinos or a cabinet, call it what you will, who will direct the policy of these three organs of government and on whom we can fix the responsibil-

ity for their efficiency and good conduct. There must be somebody who shall more narrowly and conspicuously personify the policy of these different instrumentalities of government. Call him prime minister, cabinet leader, or anything, but fix who he is going to be."

"Out of these different instrumentalities must be evolved, through legal means, if possible, extra-legally, if we must, a figure recognized by all the Filipinos, who will stand at the head of the government on their behalf—a leader who shall symbolize, at a given time, their desires and aspirations; who shall breathe life and harmony and efficiency into our legislature and executive departments; and who shall be raised to that position by a triumphant majority through his undoubted leadership and the respect he commands from the entire nation. Clustered around him should stand the rest of his council or cabinet or whatever you call it, composed of the leaders of the party in power, executive heads and members of the legislature, who should form the eyes and ears and arms of that organic whole and who, with their chief, should be the responsible advisers to the Governor-General and the legislative leaders responsible to the country for all legislation."

That was what the writer said five years ago in a debate at the Philippine Columbian Association. It has been more or less the objective of the majority, or Nacionalista, party ever since.

Speaker Osmeña's Refusal of Secretaryship of the Interior.

When the time came for filling the executive posts, the necessity was again felt for a unified and collective leadership among the governmental organs granted the Filipinos. The experience of the two houses even before the reorganization of the executive departments clearly showed the lack of such leadership. The leadership of Speaker Osmeña was not an open one, but secret and extra-legal, exercised in the party caucuses not by virtue of his speakership, but because he was the president of the party in power. He was no longer, by virtue of his official position, the most representative Filipino in the government, for the Senate President could also claim a similar representation of the people. The Senators did not look with great favor upon the leadership of a member of the Lower House, and it was chiefly the personality of the Speaker and the party discipline which made coördinate action between the two bodies possible.

It was this same jealousy between the two bodies which prompted the idea to place party leadership outside the legislative chambers. It was also felt that the important executive positions should now be filled by responsible leaders. A movement was therefore started to make the Secretaryship of the Interior the position of leadership of all the three organs of government granted to the Filipinos. In a caucus of the majority members of both Houses, held on December 22, 1916, a resolution was passed urging Speaker Osmeña to leave the speakership and accept the Secretaryship of the Interior.

Speaker Osmeña, after mature deliberation, declined the Secretaryship of the Interior in a long memorandum submitted to the caucus of the majority members of the two Houses on January 3, 1917. He said that he was "entirely in accord with the principle of a united and responsible leadership," but that under the present circumstances he feared that the leadership should not be in the Executive Department. He said that it was necessary that the organs of government should work as a united and organic whole but the Secretaryship of the Interior might not answer the purpose of such leadership. In the first place, there being no other members of the Legislature in the Cabinet but himself, he claimed that the position of the president of the party in the executive power would be anomalous. As he was the chosen leader of the House, the House might be expected to follow the leadership of the Cabinet, but because the Senate had no representative in that body it would be a very hard task to have the Senators also recognize his or the Cabinet's leadership. The people were expecting a great deal from the much-talked-of "premiership," while nobody knew the extent of executive discretion which the Governor-General would give the Secretary of the Interior. For all these reasons, he deemed it wise not to accept the Secretaryship of the Interior. In his conclusion, he urged his party to find some other means of establishing a united and responsible leadership so that the action of the Filipino organs in the government might be efficient, coördinated, and harmonious.

The problem of an open and responsible leadership thus remained unsolved. Although everybody knew that Speaker Osmeña was the Filipino power in the government, his influence was no longer due mainly to his

Creation of the
Council of State.

official position, but because he was the president of the triumphant party. This was a bad precedent, for then anybody who could by any means become the leader of the party in power would be the most influential man in the government, and there would be the same problem of government by irresponsible party bosses which sometimes infests American states and cities.

Even Governor-General Harrison was alive to the problem of harmony and coöperation among the responsible elements in the government, and, in his message of October 16, 1917, he said:

"Whatever may be our ideas theoretically as to the best method of conducting the affairs of our government, that method should be followed which will tend to bring all responsible elements of the public administration in close coöperation, prevent unnecessary friction in adjusting and operating the component parts of the administrative machinery, and thus secure rapid and united action and substantial results. This coöperation is particularly essential in moments of difficulties and crises. A lack of coördination of the elements of government or the failure of the great measures of government demanded by the public interest will not result in the final favorable opinion which the world will form of the political capacity of the Filipino people, but such final favorable opinion will of necessity be based upon the united and responsible action of the government, working and operating like an organized and efficient whole, and keeping in view the necessities and aspirations of the people to whose security and welfare we are jointly consecrating our best efforts."

In order to solve this problem and to have a definite body which could advise him on matters of importance, with the acquiescence and support of Filipino elements in the government, the Governor-General decided to create a Council of State. He first announced his desire in his message of October 16, 1918, when he said that he was "now ready to establish a Council of State to include the authorized spokesmen of the two Houses of the Legislature in addition to the members of the Cabinet to advise the Governor-General on matters of public importance." An executive order was subsequently issued to that effect, and the members of the Cabinet and the presiding officers of both Houses were appointed members of the Council of State "to aid and advise the Governor-General on public matters".

In a sense, however, the Council of State was not a new creation. Ever since the establishment of civil government here there has always been some sort of a Council of State in the Philippines. The writer does not mean that there have been bodies in the past with the name of "Council of State," but that the principle underlying the present Council of State has always been followed by American governor-generals. Our governors have always endeavored, in their government of the Philippines, to secure the advice of the most representative Filipinos that they could get. That was the reason back of Governor Taft's preliminary steps when he called into power three prominent Filipinos, Dr. Tavera, Mr. Legarda, and Mr. Luzuriaga, the leaders of the only political party in existence, the Federal Party, and had them appointed to the Commission. Governor Taft began the practice of consulting the Filipinos whom he thought represented the best opinion of the people of the Philippine Islands. This practice was inspired by President McKinley who always told the American people that American sovereignty was acceptable to, and in accordance with, the wishes and aspirations of the great masses of the Filipino people. What the leaders of the Federal Party were at that time to the Civil Governor, the present leaders of the Nacionalista Party, as represented in the Council of State, are to the Governor-General—with only two incidental differences. The leaders of the Federal Party were not elected by the people, directly or indirectly, and their power was also smaller. Because these Federal leaders were not elected by the people, it was not certain that their advice and counsel was approved by the people. As it turned out, in the first national election of 1907, the Filipino people repudiated them and elected a majority of the opposing party to power. But save for these incidental differences, the principle back of the practice of securing the counsel of prominent Filipinos in the government of the Philippines was one and the same. It is the same principle underlying the present Council of State.

**Forerunners
of the Present
Council of State**

The Council of State meets once a week, usually on Wednesdays. The Governor-General presides over the Council, but he allows it to elect a vice-president. In the absence of the Governor-General the vice-president of the Council presides.

The Council of State has been established, among other things, to solve the problem of responsible leadership in the government. Composed as it is of the ranking executive officials and the recognized legislative leaders, the Council of State becomes the highest council in the government. It aims to direct the Filipino element in the government. It can harmonize the executive and legislative departments, while not being exactly at the mercy of the transient moods of the legislature, for there is no provision for its dismissal in case its policy is disapproved by the Legislature. The Governor-General sees in it a representative council on which he can rely for advice on domestic questions.

**Powers and
Functions of the
Council of State**

The Council of State has not only become the coördinating factor of the Filipino elements in the executive and the legislative departments and not only is it an adviser to the Governor-General, but it has been given definite powers.

The functions of the Council of State may be enumerated as follows:

1. It coördinates and harmonizes the action of the Filipino elements in the government.
2. It advises the Governor-General on important matters.
3. Its approval may be required by law. For instance, the law passed by the Fifth Philippine Legislature penalizing the monopoly, holding, and speculation in rice, specially provides that the Governor-General, with the consent of the Council of State, could issue the necessary rules and regulations to enforce the measure.
4. It prepares and approves the budget before the Governor-General sends it to the Legislature.
5. It decides upon the expenditures of the government funds as provided by the Philippine Legislature for specific purposes, like universal free education and the sending of government students abroad.
6. It decides upon the policies of the different departments of the government.

CHAPTER V

OBSERVATIONS ON THE COUNCIL OF STATE

One objection to the Council of State has been to the effect that there is too much concentration of power in this body. Yet the functions enumerated in the last chapter do not look formidable or arbitrary. Its work as a coördinating link between the executive and the legislature is certainly not arbitrary. Composed as it is of the leaders of the legislature and the chief officials of the executive departments, it is naturally the place where harmony and coordination can be effected between the executive and legislative departments. It has, however, no final power, except when the law grants it. Its main functions are advisory in nature, either to the Governor-General or to the legislature. Its suggestions can be approved, rejected or modified. As a body, it does not as yet compare in powers with the cabinets of responsible governments. In the first place, it cannot formally introduce bills to the legislature. It can suggest the passage of bills, and its suggestion can be recommended by the Governor-General to the legislature and introduced in the legislature by a member of the Council of State who is also a member of the legislature or by any other member of the legislature. But it is not yet given the formal responsibility for measures introduced in the legislature.¹ The actual influence it wields in legislation and administration is due, to a large extent, to the presence of the two presiding officers of the legislature, who are, as we shall see, clothed, independently of the Council of State, with extraordinary powers and prerogatives.²

**Are the Powers
of the Council of
State Arbitrary?**

¹ With the exception of the budget. See page 77.

² See page 53.

**The Council of
State and Amer-
ican System of
Government.**

The first impression which the Jones Law naturally gives is that the American congressmen who drafted it were imbued with nothing but the presidential system of government of a more or less personal division of powers between the executive and the legislature, and did not, therefore, contemplate the establishment of any other system. This appears to be one of the objections to the Council of State.

In the first place, it is better to distinguish the practices under the so-called presidential system and those under the cabinet system. The writer is, at least, one of those who believe that organically there is less separation of powers in the United States than in England. In other words, in England the spheres mapped out by law and practices between the executive and the legislature are more pronounced than in the United States. There are no quarrels in England between the executive and the legislature. In matters of appointment there is no friction with the legislative body, for it does not require the consent of a legislative branch. In the case of the formulation of the budget the proper relationship between an executive and a board of directors is maintained in England. The executive prepares the fiscal program which is eminently and fittingly an executive act; the Parliament is simply an organ of control. It is in the personal division of powers that the real separation exists in the United States. The American Federal constitution prohibits members of Congress from holding administrative positions. In England the leaders of the party in power in Parliament constitute the cabinet.

In the Jones Law there is no prohibition to legislative members from holding executive posts. In fact, the earlier drafts of the bill provided that members of the legislature could also be members of the cabinet. The writer remembers distinctly what the late Representative Jones said as to why he left that provision out. He said that he preferred to let the people of the Philippines decide whether they want to have that system or not. That is why there is no prohibition to our legislative members from holding executive positions. Had it been the purpose to establish a similar practice here, Congress would have incorporated it in the law, just as it is done in the federal constitution. As a result, we did have a senator who held an executive position at the same time.

Besides, it was never the intention of the United States to have us imitate every political device they have. President McKinley, in his instructions to the first Philippine Commission, very well admonished:

"The Commission should bear in mind that the government which they are establishing is designed not for our satisfaction, or for the expression of our theoretical views, but for the happiness, peace, and prosperity of the people of the Philippine Islands, and the measures adopted should be made to conform to their customs, their habits, and even their prejudices, to the fullest extent consistent with the accomplishment of the indispensable requisites of just and effective government."

Governor Harrison, in his inaugural address to the Philippines and in referring to the government that the Filipinos may establish, said:

"Such a government may not necessarily denote an entire reproduction of our own institutions, but one which guarantees to its citizens complete security of life, of liberty and of property."

The one serious objection to the Council of State seems to be the ever mooted question of the separation of powers. No government of the present day adheres to the strict and literal exercise of the separation and independence of powers. It is true that the separation of powers was a fundamental principle enunciated by the early American statesmen. The fathers of the American nation thought that the greatest safeguard to liberty was the complete independence of these two governmental powers. They were led to believe that only in that way could they preserve liberty. Their bible on the subject was Montesquieu's "Spirit of Laws" in which he stated that when the legislative and executive powers are in the same person or in the same body of magistrates there can be no liberty, and that there would be an end of everything if the execution and formulation of laws be left in the same hands.

**The Council of
State and Separation
of Powers.**

This theory has never been actually carried out in practice. It is impossible to have a government in which these two departments are totally separate and independent. As Prof. Goodnow has very well said in his "Politics and Administration", "The principle of the separation of powers in its extreme form cannot be made the basis of any concrete political organization.

For this principle demands that there shall be separate authorities of the government, each of which shall be confined to the discharge of one of the functions of government which are differentiated. Actual political necessity, however, requires that there shall be harmony between the expression and execution of the state will. Now in order that this harmony between the expression and the execution of the state will may be obtained, the independence either of the body which expresses the state will or of the body which executes it must be sacrificed. Either the executing authority must be subordinated to the expressing authority, or the expressing authority must be subject to the control of the executing authority. Only in this way will there be harmony in the government. Only in this way can the expression of the real state become an actual rule of conduct generally observed".

"Both reason and experience," said Prof. Garner in his "Introduction to Political Science,"³ "abundantly show that no government can be organized on the principle of the absolute and complete separation of the departments among which the legislative, executive, and judicial functions are distributed. There is not now and never has been a constitution in which the three departments were not more or less connected and dependent one upon the other, and in which each exercised powers that, under a strict application of the theory did not belong more properly to one of the others. In short, the doctrine of the separation of powers has never been anything more than a theory and an ideal."

One opponent of the Council of State in the Philippines said that our governmental powers should be separated precisely to attain harmony "in the same way that the harmony of creation is fulfilled when each element realizes, within its own sphere, its proper and exclusive object in accordance with the law of its being". But government, to quote Woodrow Wilson, does not fall "under the theory of the universe, but under the theory of organic life. It is accountable to Darwin, not to Newton. It is modified by its environment, necessitated by its tasks, shaped to its function by the sheer pressure of life. No living thing can have its organs offset against each other as check, and live. On the contrary, its life is dependent upon their quick cooperation,

³ Page 417.

their ready response to the commands of instinct or intelligence, their amicable community of purpose. Government is not a body of blind forces; it is a body of men, with highly differentiated functions, no doubt, in our modern day of specialization, but with a common task and purpose. Their cooperation is indispensable, their warfare fatal. There can be no successful government without leadership or without the intimate, almost instinctive, coordination of the organs of life and action. This is not theory, but facts, and displays its force as fact, whatever theories may be thrown across its track. Living political constitution must be Darwinian in structure and in practice."⁴

In this connection it would be interesting to note the ideas of the great statesman and philosopher of the Philippine Revolution, Apolinario Mabini. He said:

"Society is a group of men pledged to render mutual help to one another for the attainment of that common welfare, which they cannot by themselves and without the help of others secure. When a group of men are called upon to carry out an enterprise, for instance, to build a house, there must be some one among them to lead the others in the proper distribution of the work; otherwise they will not understand each other and nothing will be accomplished. A corpse still retains all the organs of the body, but it cannot move, cannot function, because it lacks a soul which nerves its component parts to a simultaneous and uniform action. Its hands do not move, for the body to which they are attached cannot move. The same thing happens with a society: if it is nothing but a gathering of men, without aims or guidance, order or harmony, it is a veritable cadaver, for what one man may do others will undo. They will soon fight each other and dissolve, just as nothing awaits the cadaver but its decomposition.

Society, then, should have a soul: authority (sovereignty). This authority should have a brain to guide and direct it: the legislative power. A will that works and makes it work: the executive. A conscience to try and punish the bad: the judicial power. These powers should be independent in the sense that one should not encroach upon the attributes of the other. But the last two should be made subservient to the first, just as will and conscience are subordinated to reason. The executive and the judiciary cannot separate themselves from the laws dictated by the legislature, anymore than a citizen can violate them. The power of legislation is the highest manifestation of sovereignty just as reason is the highest attribute of our soul.

"But this subordination of the executive and the judiciary to the legislature is one of order and harmony, not of hierarchy. As out of

⁴ Wilson, *Constitutional Government*, pages 56-57.

a perfect harmony of the three attributes of our soul is born the attribute of virtue, so out of the harmony of the three governmental powers springs forth a good government.⁵

No Real Separation and Independence of Powers in the United States.

The strict separation between the executive and legislative departments has, as a matter of fact, ceased to exist even in the United States. A strong President is as much of a leader in legislation as an English Premier. "Under our system of politics," says ex-President Taft, "the President is the head of the party which elected him, and cannot escape responsibility either for his own executive work or for the legislative policy of his party in both houses".

The only difference is that in the United States the relation between the executive and the legislature is secret and extra-legal. In the United States, said Mr. Story in his classic work on the Constitution, "that open and public responsibility for measures which properly belongs to the executive in all governments, and especially in a republican government, as its greatest security and strength, is completely done away. The Executive is compelled to resort to secret and unseen influences, to private interviews, and private arrangements to accomplish its own appropriate purposes, instead of proposing and sustaining its own duties and measures by a bold and manly appeal to the nation in the face of its representatives. One consequence of this state of things is that there never can be traced home to the Executive any responsibility for the measures which are planned and carried at its suggestion. Another consequence will be (if it has not yet been) that measures will be adopted or defeated by private intrigues, political combinations, irresponsible recommendations, and all the blandishments of office, and all the deadening weight of silent patronage".⁶

While the cabinet members in America are not allowed to appear in person before Congress, they, in fact, extra-legally or secretly, communicate with individual members of Congress to influence the course of legislation which they favor. No Congress has been free from such relations. Members of Congress, on the other hand, frequently visit the department sec-

⁵ The Political Trinity, September 20, 1899.

⁶ Story, the Constitution, sec. 869.

retaries on departmental matters. A Senate Committee which reported favorably on the bill to allow cabinet members to have seats in Congress said in 1881:

"No one who has occupied a seat on the floor of either house, no one of those who year after year so industriously and faithfully and correctly report the proceedings of the houses, no frequenter of the lobby or the gallery, can have failed to discern the influence exerted upon legislation by the visits of the heads of departments to the floors of Congress and the visits of the members of Congress to the offices in the departments. It is not necessary to say any that the influence is dishonest or corrupt, but that it is illegitimate; it is exercised in secret by means that are not public—by means which an honest public opinion cannot accurately discover and over which it can therefore exercise no just control."

Those who are prone to accept nothing that is not found, literally, in black and white, in the provision of the Jones Law—and forget that political law must necessarily be interpreted liberally with the changing political conditions—may cite the decisions rendered by our Supreme Court, in which the separation of powers as it is presumed to exist in the United States is said also to exist in the Philippines. They might mention *Severino v. Governor-General*, *U. S. v. Bull*, both handed down in 1910, and other cases. The first case states: "This Government being modeled after the Federal and State governments in the United States now possesses a complete governmental organization, with executive and judicial departments, which are exercising functions as independent of each other as the Federal or State governments."

**The Separation
of Powers in the
Philippines.**

In the first place, it is better to note that the court in the above cases did not declare that the three governmental powers are completely separate and independent, both personally and organically. We have observed elsewhere that even in the United States complete separation and independence do not exist. What the court decided was that these governmental departments must each exercise their functions independently of the others. It did not in those cases prohibit officials from holding both executive and legislative positions. Everybody knows that in 1910 when those cases were decided there was more personal merging of the executive and legislative departments than now. The Philippine Commission was both an executive and a

legislative body; most of its members held both executive and legislative positions and its chairman was the Governor-General. The members of the Philippine Commission who held executive positions at the same time must, however, perform their separate functions in their separate capacities. As an executive, Gregorio Araneta was Secretary of Finance and Justice, but as a legislator, he was a member of the Philippine Commission. It is the same way in other constitutional governments.

The plain fact is that separation of powers even in law now simply means a more or less complete separation of functions and activities—but not prohibition of legislative members from holding executive or advisory positions, except when there is another special prohibition to that effect, as in the United States constitution.

While we do not say that our government is perfect, at least we believe that our system in this respect is an improvement over the American model. Instead of the extra-legal and clandestine relations of the American system, we substituted an open and visible one. We have provided (1) that secretaries of departments can appear on the floor of the legislature and can be called by the legislature on matters pertaining to their departments; (2) that the legislative leaders should be members of the Council of State; and (3) that the Council of State should openly assume the responsibility before the legislature and the country for the fiscal plan of the government.

**The Cabinet and
Council of State.**

Another question is sometimes asked: "Why cannot the cabinet perform the duty of an advisory body to the Governor-General"? We have discussed the establishment of the cabinet and the purpose to make it responsible to the legislature. This responsibility to the legislature is being sought (1) through the method of appointment, at the beginning of each legislature and with the consent of the Philippine Senate; (2) through the right of interpellation given the legislature; (3) through the fact that legislative members can become members of the Cabinet; and (4) through the qualification that the executive departments, with the exception of the Department of Public Instruction, must be filled only by Filipino citizens. Being the only elective branch of the government, the legislature must necessarily have great weight in the selection of the Filipino members in the Cabinet.

The Cabinet, however, could not, at the time it was established, very well answer the needs of a real responsible cabinet to the legislature, because then only one member of the legislature could be member of the Cabinet. The Organic Act which created the executive departments abolished all the other departments, except the departments of the Interior and Public Instruction, the latter being filled by the Vice-Governor General. Such being the case, the secretaryship of the Interior was the only one which could be occupied by a member of the legislature at that time, for no member of the legislature could occupy a position created during his term of office. This was, as we have seen, the reason why Speaker Osmeña did not want to become the Secretary of the Interior and assume the leadership of the party in power in the legislature and in the entire government.⁷

The failure to effect a unified leadership, thru the attempt to appoint Speaker Osmeña Secretary of the Interior, made the leaders of the Filipino look for some other means whereby the Cabinet, as a body, could be made more responsible to the legislature, and the legislature, thru its leaders, could control the policies of the executive departments. Then the idea of a Council of State was born. It is nothing but the Cabinet enlarged. It is simply a recognition that there are other officials in the government who are more representative than the Cabinet members, such as, the presiding officers of both Houses. In other words, the Council of State is nothing but the Cabinet with its membership increased to include the President of the Senate and the Speaker of the House. Such a cabinet, with members without portfolio, is not an uncommon practice even in England.

Another objection seems to be that the Council of State takes up so much detail in administration instead of confining itself to "big affairs" of state. Why should the raise of the salary of employee "X" be taken up in the Council of State? it is asked. Why not leave such matters to the cabinet? There, again people forget that the cabinet is now dead: it has been supplanted by the Council of State. We have said that the Council of State is nothing but the cabinet enlarged, containing members without portfolio. Surely, this enlarged cabinet, containing the recognized legislative leaders besides, is a much more popular institu-

⁷ See page 28.

tion than the old one which included only one member of the upper house—and not the recognized leader at that—and no member of the lower house.⁸

Democratic Foundation of the Council of State. Notwithstanding its origin, the Council of State is a democratic body, for it is simply a recognition on the part of the Governor-General of the existence of representative Filipino elements in the government. What is democracy but the direct or indirect rule by the people? There can be no direct democracy in the Philippines for there can be no direct rule of 10,500,000 people. Ours must necessarily be a representative democracy. If the 10,500,000 people can control and change the membership of the Council of State, it is a democratic body; and our people does control its actual membership. We have learned that the Cabinet members are in effect responsible to the Filipino people, that is, the Filipinos have, thru their representatives, a controlling voice in their selection.

The other members of the Council of State are the recognized spokesmen of the Houses of the Legislature, so that in case the members of the opposition party should, by the popular will, be given control of the Legislature, they would naturally control the Council of State. They could logically insist that a new Cabinet be appointed by the Governor-General from their own party; and they would naturally elect the spokesmen or presiding officers of the two Houses from their own ranks. Hence the complete membership of the Council of State would be changed. Had the members of the opposition party won in the elections of 1919, they would have had the entire membership of the Council of State. If they had controlled even one branch of the legislature, they would have representation in the Council of State. Is not this representative democracy? Is not this the same thing which the people of Canada and Australia do when they select a new legislature? By means of such elections the Canadian or Austrian peoples practically decide who would form the privy council or cabinet; although theoretically the Governor-General has the exclusive right to appoint his advisers. Similarly, every triennial election in the Philippines is a virtual instruction by the people

⁸ It may be remembered that Senator Palma was a member of the Cabinet from 1916 to 1920.

which, by the rules of democracy, must be followed by the Governor-General. He should change his Council of State accordingly. The Council of State as at present constituted is a popular institution for its membership depends upon the people expressing their will thru the regular election.

The most serious objection to the Council of State is an objection which can be corrected. It is contended that the Council of State is simply a creation by the Governor-General by means

The Council of State and the Governor-General.

of an executive order, and being a mere creation, it can be destroyed at will by its creator or greatly modified to give it an unpopular character. The reason why it was originally established as an Executive Order was that, had it been created by law at the beginning, no member of the legislature could have occupied any position in it, because of the prohibition to members of the legislature from holding positions created by themselves.

However, there is no reason why the establishment of the Council of State and its present composition cannot be formally recognized and ratified by a law passed by the legislature. Its existence has virtually been ratified in the many laws passed by the legislature which confer specific powers on the Governor-General subject to the consent of the Council of State. Some of these laws have already been signed by the President of the United States. Others deal with such important subjects as the spending of ₱30,000,000 for education and the regulation and control of foodstuffs. Granting that legally the executive order creating the Council of State can be revoked by another Governor-General, who will exercise the functions given it by the legislature? Will the legislature consent to have these functions transferred arbitrarily to another body?

The Anglo-Saxon model of government is one of gradual development. The Anglo-Saxons are not lovers of abrupt changes. Practice and precedent in governmental affairs are their main guide. What specific law is there now which makes the government of England really democratic? The King of England, theoretically and legally, has still the veto power; but for two hundred years he has not exercised and will not exercise it. The organic law which produced self-government in the colonies of England still gives to the Governor-General supreme executive power. He is to appoint his own privy council, equivalent to our Council

of State, theoretically without any limitation. But in practice he can appoint only those from the triumphant party in the legislature. The present direct election of President in the United States has been brought about without any formal amendment to the constitution. Our practice of a Council of State has grown in a similar way. We have indicated that our Council of State is not a novel creation. It is simply an official ratification of existing facts; it is simply a recognition that, in the government of the Philippine Islands, the Governor-General must consult the representative Filipino officials in the government. The plain fact is that no autonomy is worthy of the name under the Jones Law unless the Governor-General consults the representative officials now composing the Council of State.

Our system of government is built on the supposition that there will never be a backward step in the march towards fuller autonomy, unless the Filipino people, in the exercise of their functions, should show such gross incompetence as to require the taking away of privileges already given them. The Council of State has not shown such incompetence. On the contrary it has served the people on many an occasion. If the legislature has been willing to give it some powers it is because it is controlled by legislative leaders. In moments of public danger, like the food crisis, it has, with the powers given it by the legislature, acted efficiently to protect the people from profiteering and to effect a more equitable distribution of foodstuffs. Our legislature would not be willing to give an executive body functions bordering on legislation unless it could have an indirect control over its policy.

Unless other means of liberalizing the exercise of executive functions by the Governor-General are found—such as the establishment of a completely responsible government—the Council of State must be retained. It may suffer several changes in its membership, but the fundamental principles of its existence must remain.⁹

⁹ For a discussion of possible changes in the Council of State, see page 127.

CHAPTER VI

THE LEGISLATURE—ORGANIZATION AND POWERS

The legislative power in the Philippines is vested in a Legislature composed of a Senate and a House of Representatives, both elected almost entirely by the qualified voters of the Islands.

**Organization of
the Legislature**

The Philippine Legislature is convened in regular session on the sixteenth day of October of every year, or if the sixteenth be a holiday, then on the subsequent secular day. Each regular session may be not longer than one hundred days, exclusive of Sundays. The Governor-General may also call the legislature in special session at any time, for a period of not more than thirty days.

Upon convening in the first session following the general election, the Houses are organized with the election of a presiding officer, called in the lower house, "the Speaker," and in the upper house, "the President of the Senate". A secretary and a sergeant-at-arms for each House are also chosen.

The Senate and House of Representatives are the sole judges of the elections, returns, and qualifications of their elective members. They do not have any jurisdiction over members appointed by the Governor-General. They also determine the rules of their proceedings subject to a few limitations set forth in the Jones Law. Thus they can punish their members for disorderly behavior and with the concurrence of two thirds can expel an elective member. A majority of each House constitutes a quorum to do business, but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. When the Legislature is in session neither House can adjourn for more than three days, without the consent of the other, and in case of disagreement between them with respect to the period of adjournment, the Governor-General may adjourn them to such time as he may deem proper.

Each House of the Legislature is obliged to keep and publish a journal of its proceedings. Upon the demand of one-fifth of the members present the yeas and nays of the members of either House may be entered in the journal. This means that one-fifth of the members can compel the House to have a roll call in order to see who are present and who vote on a given measure.

No senator or representative can, during the time for which he is elected, be eligible to any office, the election to which is vested in the Legislature. The only office covered by this provision of the Jones Law is that of Resident Commissioners at Washington. Members of the Legislature are also forbidden to hold any other office of trust or profit which has been created by them or the emoluments of which have been increased during their term.

Legislative Privileges

Members of the Philippine Legislature, in all cases except treason, open disturbance of public order, or other offense punishable by death or imprisonment for not less than six years, shall be privileged from arrest during their attendance on the sessions of the Legislature, and in going to and in returning from the same. For any speech or debate in either House they shall not be questioned in any other place.

* The legislators thus enjoy freedom of debate. In other words, they are more free to talk in the Legislature than ordinary persons are under the restrictions of the law of libel and slander. This privilege may be abused, but the idea is to give the members of the legislature freedom to discuss all subjects because it is deemed more harmful to the people if those who are making laws for them are restricted in their right of discussion.

Extent of Legislative Power

The Philippine Government, as we have stated, is simply the creation of the Congress of the United States through different legislative enactments. The latest and most important of these Acts is the Jones Law. The Jones Law confers general legislative power on the Philippine Legislature subject to specific restrictions. In other words, the Philippine Legislature can enact any law which is not expressly prohibited by the Jones Law or otherwise covered by Congressional legislation.

There are certain specific powers enumerated in the Jones Law to be exercised by the Philippine Legislature. In matters of elections, for instance, it may prescribe the regulations as to ballots, it may fix the number of representative districts and the dates of elections, and it may modify the qualifications of electors. It is also authorized to increase, abolish, and change the names and duties and provide for the appointment and removal of the heads of the executive departments. It may pass laws regarding citizenship and can impose taxes, direct or indirect, and can legislate on property rights in the Philippines. It can fix the salaries of officials not appointed by the President.

Before the passage of the Jones Law the Philippine Commission had exclusive legislative power over the parts inhabited by the non-Christian people. The Jones Law transferred this power to the Philippine Legislature.

The specific restrictions on the power of the Philippine Legislature are as follows: (1) It cannot diminish, altho it may increase, the jurisdiction of the Supreme Court and the Courts of First Instance. (2) It cannot amend, alter, or repeal the provisions regarding appointive senators and representatives. (3) It cannot legislate on the tariff relations between the Philippines and the United States. That is left exclusively in the hands of Congress. (4) It cannot abolish the Bureaus of Education and Non-Christian Tribes, or the Philippine Health Service. (5) It cannot take executive functions from out of the supervision of the Governor-General. (6) It cannot levy export duties. (7) It cannot violate the provisions of the bill of rights. (8) It must follow certain forms in the drafting of bills. (9) Congress reserves the power to alter, amend, or repeal any law, franchise, or rights granted by the Philippine Legislature. (10) The Governor-General and, in some cases, the President can veto legislation.

Specific Restrictions on the Legislative Power

The Legislature cannot pass irrevocable laws, or laws which cannot be repealed by subsequent legislation.

Irrevocable and Ex Post Facto Laws and Bills of Attainder.

Neither can the Legislature pass *ex post facto* laws. An *ex post facto* law, as defined by Chief Justice Marshall, is one that makes an act punishable in a manner in which it was not

punishable when committed. Under this prohibition the legislature cannot increase the punishment of an act after its commission. Not all retrospective laws, however, are *ex post facto* laws. If, for instance, a law simply changes the procedure not to the disadvantage of the accused, such changes do not make the law *ex post facto*.

Another prohibition on the Legislature is that no bill of attainder may be enacted. A bill of attainder is a legislative act which inflicts punishment without a judicial trial. The Philippine Legislature cannot, therefore, pass any law which will convict any person without a judicial trial.

One historic example of legislative conviction was the Act of Attainder passed in 1688 by the English Parliament, by means of which from two to three hundred persons were convicted, their property confiscated, and they themselves sentenced to death by an act of the legislative body. As Judge Cooley very well remarks: "What could be more obnoxious in a free government than the exercise of such a power by a popular body, controlled by a mere majority, fresh from the contests of exciting elections, and quite too apt, under the most favorable circumstances, to suspect the motives of their adversaries, and to resort to measures of doubtful propriety to secure party ends?"¹

Delegation of Legislative Powers.

An Anglo-Saxon principle, which limits the scope of our legislation, is the principle that no governmental department can delegate its powers to another body unless expressly authorized by the Organic Law. An executive rarely attempts to delegate the execution of the laws to non-executive officials. Similarly the judicial power does not usually give away judicial functions to non-judicial bodies. But the legislative department often attempts to delegate to other officials functions which are in the nature of legislation, and this is illegal. Some of the legislative delegations, however, are considered legitimate and are more in the nature of an exception to the general rule. For instance, the Philippine Legislature has delegated legislative functions to provincial and municipal governments. These local units can pass resolutions and ordinances which are in real-

¹ Cooley's Constitutional Limitations, 7th ed., page 369. See Malcolm, Philippine Constitution Law, Chapter 26.

ity laws for the respective localities. But, generally speaking, the legislature cannot delegate its legislative powers.

There is a distinction drawn between the delegation of power to make the law and delegation of power to make regulations for the enforcement of the law. The latter is permissible and thus we have in the Philippines boards, such as the Public Utility Commission, charged with the regulation of transportation, and empowered even to fix the rates of public service companies. But these are simply regulations for the proper enforcement of a previous law. Thus also, the Governor-General may be empowered by law to put into effect or suspend a statute upon the fulfillment of certain conditions.

Subject to the restrictions placed by the Jones Law, the Philippine Legislature is free to enact the measures it deems best for the Philippines; but in the methods and ways of legislation they must follow certain forms.

Restriction as to Form of Legislation.

A bill must relate only to one general subject, and that subject must be stated in the title of the bill. Thus, if a subject has been included within the body of a bill and it is manifestly outside its general purpose as stated in the title, that part of the bill will have no effect or the entire act may be a nullity. An example is the recent public land law, which has been declared by the Supreme Court as inapplicable to the private lands of the Philippines. The general title of the bill is the Public Land Act and is therefore intended to cover only public lands, hence no provision in it could be held to apply to lands owned by private individuals.

All bills relating to the tariff, public lands, timber and mining, immigration, and the currency or coinage must receive the signature of the President of the United States before they may be made effective.

Bills which Require Presidential Approval.

The procedure for submitting acts for presidential approval is for the bill as approved by the Senate and the House to be sent to the Governor-General, who then transmits it to the President. The Jones Law says that if the President does not sign the bill within six months after its submission then it becomes automatically a law. That has been interpreted to mean six months after the bill reaches Washington.

Veto Power of the Governor - General.

The Governor-General is empowered by the Jones Law to refuse his signature to the bills passed by the Legislature.² He is also empowered by the Jones Law to veto any item of an appropriation Act. He may strike out any amount of money which is carried in an appropriation bill without nullifying the effect of the other parts of the bill.

The Philippine Senate.

The Philippine Senate succeeded the Philippine Commission as the upper house of the Philippine legislature. It consists of twenty-four members, two senators from each of the twelve senatorial districts created by the Jones Law. The twelve senatorial districts of the Philippine Islands are as follows:

First district: Batanes, Cagayan, Isabela, Ilocos Norte, and Ilocos Sur (Abra).

Second district: La Union, Pangasinan, and Zambales.

Third district: Tarlac, Nueva Ecija, Pampanga, and Bulacan.

Fourth district: Bataan, Rizal, Manila, and Laguna.

Fifth district: Batangas, Mindoro, Tayabas (Marinduque), and Cavite.

Sixth district: Sorsogon, Albay, Camarines Norte and Camarines Sur.

Seventh district: Iloilo and Capiz (Romblon)

Eighth district: Occidental Negros, Oriental Negros, Antique, and Palawan.

Ninth district: Leyte and Samar.

Tenth district: Cebu.

Eleventh district: Surigao, Misamis, and Bohol.

Twelfth district: The Mountain Province, Baguio, Nueva Vizcaya and the former Department of Mindanao and Sulu.

Twenty-two of the twenty-four senators are elected for six years by the qualified voters and two are appointed by the Governor-General. One-half of the elective membership is changed every three years by election.

A senator must be a qualified elector, over thirty years of age, and be able to read and write either Spanish or English. He

² See page 10.

must be also a resident of the Philippine for at least two consecutive years and an actual resident of the district for at least one year immediately prior to his election.

Besides lawmaking the Philippine Senate has three administrative functions to perform: (1) It confirms the appointments made by the Governor-General; (2) it approves the reservations made by the Governor-General of any Friar lands, and the concentration of the inhabitants from outlying *barrios* for the maintenance of public order; (3) its consent is necessary before the Governor-General can change the import duties on rice established by the Philippine Tariff Act.

The House of Representatives is composed of ninety-one members, nine of whom are appointed by the Governor-General to represent the provinces inhabited by non-Christian people. There must be at least one representative in each province. To be a representative one must be a qualified elector, over twenty-five years old, able to read and write either Spanish or English, and an actual resident of the district for at least one year immediately prior to his election.

**The House of
Representatives**

Representatives are apportioned under the old law among the different provinces, as follows:

Albay, three
Ambos Camarines, three
Antique, one
Bataan, one
Batanes, one
Batangas, three
Bohol, three
Bulacan, two
Cagayan, two
Capiz, three
Cavite, one
Cebu, seven
Ilocos Norte, two
Ilocos, Sur, three
Iloilo, five
Isabela, one
Laguna, two
La Union, two

Leyte, four
Manila, two
Mindoro, one
Misamis, two
Mountain Province, three
Nueva Ecija, one
Nueva Vizcaya, one
Occidental Negros, three
Oriental Negros, two
Palawan, one
Pampanga, two
Pangasinan, five
Rizal, two
Romblon, one
Samar, three
Sorsogon, two
Surigao, one
Tarlac, two
Tayabas, two
Zambales, one
Department of Mindanao and Sulu, five

At the election in 1922, the newly created provinces of Abra, Camarines Norte, Camarines Sur, and Marinduque will be given representation.

CHAPTER VII

THE LEGISLATURE—ITS WORKINGS

Under our present system of government the legislature has an indispensable part to play not only in legislation but even in administration.

**Administrative
functions of the
Legislature.**

This was shown to be the case when upon the election of the new legislature in 1919, Acting Governor-General Yeater was obliged immediately to convene it in order that the Philippine government could properly function. He said that for the proper conduct and continuance of various governmental activities it was "absolutely necessary that the new Legislature be called so that it might reorganize as soon as possible and, through its leaders, continue to assume and perform the duties and responsibilities which our laws and constitutional practices have conferred upon the Filipino people."

The reason for this is that our legislature is the only representative body that we have, for we do not as yet elect an executive. As we have learned, even the Cabinet members are appointed indirectly thru the action of the people in the election of their representatives.¹

The most salient feature of our legislative system is the importance of the part played by the presiding officers of both houses. This has its historic explanation in the power of the Speaker of the Philippine Assembly. Upon the organization of the Assembly in 1907, the Rules of the American House of Representatives were adopted and it may be remembered that at that time the speaker of the American House of Representatives was the most influential leader in legislation at Washington. He appointed all the chairmen of committees; he was a member himself of the committee

**The Presiding
officers of our
Legislature.**

¹ See page 17.

on rules; and he must first give official recognition to members desiring to speak. These powers placed in him an effective control of legislation.

The American system was adopted in the Philippines with the added advantage for our Speaker that he was considered next in rank and importance to the Governor-General, for he was the most representative Filipino official in the government.² He was consequently given even greater prerogatives than the American speaker. He was given control of greater contingent funds; he could appoint members of the Assembly to work during recess with per diems; and could require the services of any other employee of the Philippine government. All these prerogatives of the Speaker of the Assembly have been preserved to the present presiding officers of our two Houses, with additions of further and greater powers. Together with the Governor-General they now form the most powerful committee in the government, a committee which is in many cases above the Council of State. This committee is in fact a super-cabinet. It controls the voting power of all the great corporations owned by the government, such as, the Manila Railroad Co., the Philippine National Bank, etc.; its consent must be secured before funds for public improvement can be allotted by the Secretary of Commerce and Communications; it is the final judge as to the voting of emergency funds, which amounts to about 3,000,000 pesos a year; and it even approves the contracts of university professors. Add to these the fact that they are now members of the Council of State—in fact its recognized leaders, the Speaker of the House being also the Vice-President of the Council of State—and we may realize the tremendous powers now wielded by our presiding officers. They are not only regulators or judicial officials who enforce the rules of their respective houses; they are also the greatest factors in legislation, the most influential political officials, and the leaders *de facto* of our Council of State. The President of the Philippine Senate and the Speaker of the House of Representatives are the most powerful presiding officers in the world.

In this fact lies the intrinsic weakness of our constitutional system. Whenever political leadership in a legislative body is placed in the presiding officer, the tendency is always towards less discussion, and the house loses much of its deliberative character;

² See page 26.

for a presiding officer leads, not because of his ability as a debater and parliamentary orator but chiefly because of his power to appoint committees, his control over the committee on rules and his power of recognition. Except in the committee of the whole house, he seldom takes part in the debates. It is not an open leadership in discussion, but covert leadership exercised in committee rooms and behind closed doors. The public seldom knows the attitude of the leader on a given question. When a house passes a bill, the public simply presumes that the house must have followed the suggestion of its presiding officer, although his voice might not have been openly raised in support of the measure.

The natural and logical function of a presiding officer is simply that of a presiding officer. He is often called a moderator, for his duty was originally only to enforce the rules of the house, to keep order and maintain its decorum, and to safeguard the rights of the majority and minority. No great party leader can successfully do that. Party pressure would be too great to overcome. That was one of the chief reasons why Speaker Joe Cannon was shorn of his great powers in the "revolution" of 1910 in the American House of Representatives. During the debate in the House, Representative Underwood, Democratic leader, said:

"There is no great parliamentary body in the world of which the Speaker is the leader. It is not so in the British Parliament; it is not so in the Senate of the United States. And yet those two great bodies are able to transact their business as efficiently as the House of Representatives has ever done. I say that, no matter how high or what character a man may be who occupies the Speaker's chair of this House, that leader cannot divorce the leadership and the partisanship of the leader from the Speaker when he is presiding over the deliberations of this House. This great parliamentary body is entitled to a presiding officer who wields the scales of justice between man and man, between two contending political parties, and that is what we are standing for to-day."³

There is another disadvantage in the present arrangement in that it prevents the complete establishment of responsible leadership which is, as we have seen, one of the main reasons for the establishment of the Council of State. The super-cabinet that we have discussed, consisting of the Governor-General, the President of the Senate, and the Speaker of the House of Repre-

³ Second Session, 61st. Congress, Record, vol. 45, part 4, p. 3433.

sentatives, has placed the two presiding officers on an equal footing. It is built on the supposition that the two presiding officers will always work hand in hand in matters covered by the super-cabinet or committee. But suppose that the two Houses are controlled by different parties or presided over by two men antagonistic to each other, what will happen? We would give the balance of power in that committee to the Governor-General who can thus play one presiding officer against the other and thus completely control the committee.

Yet our present presiding officers do not perhaps consider the present arrangement as permanent. Senate President Quezon has never seemed to like the work of a presiding officer. As a matter of fact he leads just as much at the chair as on the floor. As for Speaker Osmeña, he would have gladly left the Speakership and accepted the Secretaryship of the Interior if the objections he offered had been obviated. In that case the Speaker of the House would have been more or less simply of a judicial official, shorn of his political leadership.

However, no matter what intrinsic faults may be found in the present arrangement, we must remember that it is not always the logical and scientific in government which necessarily succeeds. In defense of the present arrangement, it may be said that it secures the greatest freedom of action on the part of our legislative leaders. Our presiding officers do not in any way owe their appointment or election to the Governor-General, while our cabinet heads although practically made responsible to the legislature still legally owe their appointment to the Governor-General. A new Governor-General may still with a stroke of the pen endeavor to exercise all executive powers and make the cabinet heads simply his agents. This will not in all probability be done, but still there is more possibility in this direction than in taking away powers already enjoyed by the presiding officers. The presiding officers are more independent, so that in case of conflict between the Philippine Legislature and the Governor-General, they can act with greater freedom. That is possibly the main reason why the presiding officers are still permitted to retain the political leadership.

Legislative Causes

While every government demands that there be three distinct departments of government, executive, legislative and judicial, efficiency requires, on

the other hand, coordination and harmony, at least between the first two departments, the executive and the legislative. We have found a great necessity for this in the Philippines inasmuch as the people are still struggling for a more ample autonomy. This was the main problem which was met in the creation of the Council of State.

Now what are the means employed to effect harmony and to avoid deadlocks between the two houses of the legislature? This is done by the party system. There are usually harmony and co-operation between members of the same party, so that even if there are two houses of the legislature, friction and deadlocks are avoided through party action. That is why caucuses are held. They are informal meetings by members of the two houses belonging to the same party. Both the Nacionalista and the Democrata members of the Senate and the House hold caucuses to decide upon their courses of action.

Each house of the Legislature may call a secretary of a department for information on subjects pertaining to his department. This is equivalent to interpellation in other countries. The procedure⁴ in the lower house is for any member to draft questions he

**Appearance of
Cabinet Mem-
bers**

⁴ Rule XXVII-A of the Rules of the House of Representatives regulates the interpellation in the lower house as follows:

1. Every petition for the appearance of a cabinet member should be in writing and in the form of a resolution. It must necessarily refer to some administrative subject or matter within the secretary's jurisdiction and should contain only concrete and specific questions and no arguments, inferences, imputations, personalities, epithets, ironic expressions, hypothetic questions or affirmations of facts, unless these are necessary to explain the question.

2. The Speaker will decide if the question is in order or not, and if not he will declare it out of order, from which an appeal may be had to the house as in other cases.

3. Once the resolution is approved and the date set for the secretary's answer, the secretary of the House will send a copy of the same to the secretary concerned and another to the Governor-General, stating the date and hour in which such answer should be given. The secretary will be given at least three days to answer, from the date of the approval of the resolution, unless the house should consider the matter an urgent one, and decide for an immediate answer or within a shorter period of time.

4. Once the answer is given, no debate on the matter will follow.

5. When a cabinet member who is not a member of the house desires to speak on a matter related to his department, he shall address the Speaker who will set the date and hour for his appearance.

desires to ask the department secretary and then to incorporate them in a resolution requesting the house to call for the secretary.

If the motion is approved, the secretary will be requested to appear. On grounds of public policy a secretary may refuse to comply with the desire of the house. Generally he will promptly accede to the wishes of the house and will come prepared to give full information on the question submitted to him.

The department secretary may also of his own accord and without invitation of the house appear on the floor of either house to explain matters pertaining to his department.

**Preparation of
Bills**

Not all bills that are introduced in the legislature are prepared by the members themselves.

Many bills are drafted in some executive department and then introduced by one or more members of the legislature. Similarly, a bill prepared and introduced by a member of the legislature may be referred to the department most familiar with the matter covered by the bill. For instance, a bill reforming the Code of Criminal Procedure is likely to be of interest to the Department of Justice; and a bill appropriating money for some agricultural purposes will be referred to the Department of Agriculture and Natural Resources. Of course, this does not appear in the official record and is mostly done by the legislative leader who is a member of the Council of State.

The Council of State can also suggest measures and have these measures introduced in the legislature through its member who is at the same time a member of the legislature or through any other member.

An individual member may require the services of the Legislative Reference Division of the Philippine Library and Museum in the preparation of bills and the research of data and materials.

**The course of a
Bill or Resolu-
tion**

Each member can present as many bills and resolutions as he wishes. The bill or resolution must contain the name or names of its introducers. It should be handed to the Secretary of the House, who will then advise the Speaker for the first reading. It must be read three times before it can be passed. It is first read by title, and immediately afterwards it is referred to a committee. If the committee approves it, it reports the measure back to the house with a favorable report. Then it is placed on the corre-

sponding calendar. Copies will be then distributed among the members. When its turn comes on the calendar, or when by a special rule approved by the majority, it is brought up for discussion, the second reading is made. General discussion then ensues. At any time after the second reading the previous question may be presented, and if it is decided in the affirmative the bill will be read the third time and the voting asked. After the third reading no more amendments may be offered.

After the passage of a bill by one house it is sent to the other house, where it will go thru a similar procedure. Once approved by both houses a bill must be signed by the presiding officers and the secretaries of both houses and the Governor-General. In some cases, the signature or acquiescence of the President is required before any bill takes effect.

It cannot be expected that each house will take up in detail the work of studying every bill presented. For the proper division of the work of the legislature the member of both houses are divided up into many committees. The Senate has about twenty-four committees and the House thirty-three. Some of the most important committees are the committees on appropriations, rules, accounts, and external relations. Among the other committees are the committees on elections, to take charge of the contested seats of the house, the committees on judiciary, public instruction, commerce and industry, labor and immigration, agriculture, public lands, mines, forests, and banks and banking.

The Committee system

All bills and resolutions on money questions, that is, those relative to taxation, expenditures, debts, accounting, and everything that touches directly or indirectly the public purse, are referred to the committee on appropriations. During the early days of the Philippine Assembly, the appropriation committee was a sort of committee of committees, because the chairmen of other committees were included in its members.

Next to the appropriation committee, the committee on rules is the most important. This committee has charge of all matters affecting the rules of the house. It determines what bills shall be discussed first, for it can request the house to take up any bill at once. This request is granted upon a majority vote of the members present.

The committee on accounts has charge of all receipts and expenditures of the house. The committee on external relations has charge of all matters pertaining to the relations of the Philippines with the United States. The establishment of the Commission of Independence has, in a large measure, done away with the prerogatives of the committee on external relations.⁵

**The Committee
of the whole
house**

The committee of the whole house is different from the other committees, in that it is the entire house itself which sits as a committee.

The house resolves itself into a committee of the whole house to take up matters of general interest. Twenty members constitute a quorum for the committee of the whole house. There is more informal discussion in this committee and usually the general debate on bills takes place at this stage. After the general debate is closed, the so-called five-minute rules is ordinarily adopted whereby amendments may be introduced and five minutes given the proposer to speak.

The Committee of the whole house reports to the house on the action it has taken.

**Conference Com-
mittee**

In case the two houses of the legislature fail to agree on a bill, each appoints a conference committee to take up the differences between the two houses and to see if a way can be found for final agreement. These committees report to their respective houses whatever recommendation they may have. The houses then act on these reports. In this way, many bills are finally passed, on which at first there were differences of opinion.

**The Philippine
Legislative
System**

We have learned that the executive departments are really doing a great deal of the preparation of bills for introduction in the houses. Some are prepared in the Legislative Reference Division of the Philippine Library and Museum. The Council of State through its members who are at the same time members of the legislature, can introduce measures in the legislature. The bills prepared and introduced by the individual members are in turn referred to the executive departments for comments, and very few of such bills, if given the adverse comments of the departments

⁵ See page 143.

concerned, are likely to pass. It is true, however, that the legislative caucus of the majority members often decides which bills should be passed, but that is simply a negative, or controlling, action. The caucus does not *prepare*, or *direct* the preparation of bills: it simply expresses a controlling voice as to which of the bills already prepared should be passed. In a sense we are thus again deviating from the American system. The American Congress is supposed to do all the preparation, initiation, as well as the adoption of laws. The executive is simply to execute those laws once they are passed by Congress. In England, however, as in most other countries, no such clean-cut division is found. On the contrary, the legislature is not supposed to be the sole power in the preparation and initiation of bills; that is left mostly to the executive. The legislature is only a controlling body, the board of directors of the government corporation. As in other corporations, the executive is the one called upon to prepare measures and programs, for it knows more about the conditions of the corporation, its needs, its finances, and its possibilities, and therefore, it should be the one to formulate the plan to be ratified by the board of directors. Similarly in a government the cabinet (or council of state) which is the responsible head of the administration should be the one called upon to formulate the plan in the form of bills for the government and to submit such plan for ratification to the legislature.

We have established a system half-way between the American and British practices.

In the development of our legislative system, we find less importance attached to the committees. Thus, the big committee which at the time of the Assembly was a most powerful body, the committee on appropriations, does not have as great a work and influence as it used to have, due to the establishment of the budget system. It is the Council of State which prepares and initiates the budget, and the committee on appropriations simply converts the budget, once it is approved by the legislature, into the form of a bill.

It has been often debated whether the legislature has gained or lost under the new system. In the present government the individual members of the legislature have certainly lost much of their prerogative to prepare measures, but they have increased their control over the executive. The legislature indirectly

controls the Council of State and inasmuch as under the present system the Council of State is the guiding hand in the preparation of many bills, in the long run, it is the legislature which has the ultimate say as to the policy to be pursued and the kind of measures to be passed. What the legislature has gained in being able to inspect the workings of the executive departments is perhaps more important than the exclusive initiation and preparation of measures. President Wilson, in his Congressional Government, has very ably said: "It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct. The informing function of Congress should be preferred even to its legislative function."

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CHAPTER VIII

THE JUDICIARY

The Judicial power of the Philippine Government is vested in the Supreme Court, Courts of First Instance, Justice of the Peace courts and the Municipal Court of the City of Manila. The Supreme Court and the Courts of First Instance are called the courts of superior jurisdiction. The Supreme Court of the United States may also be considered as a part of the Philippine Judiciary.

**The Judicial
Power**

The judiciary must be kept independent so that it can do justice to all. It must not be subject to the control or direction by the other departments. That has been the objective of the judiciary established since American occupation. It is for this reason that the term of office of a judge or justice is practically for life. In the case of the Supreme Court, a judge is appointed by the President of the United States with the consent of the American Senate. In that of judges and auxiliary judges of first instance, they are appointed by the Governor General with the consent of the Philippine Senate; but they can not be dismissed from office except upon the recommendation of the Supreme Court. Similarly the justice and auxiliary justice of the peace can be removed only upon the recommendation of the judge of the court of first instance of the province concerned.

**Independence of
the Philippine
Judiciary**

A possible hindrance to the maintenance of the independence of the Philippine judiciary is the authority of the Secretary of Justice and the Governor-General to promote judges of the court of first instance and to distribute them among the different districts. Naturally conditions in the Archipelago differ. Some provinces are better suited to some people and other provinces to other people, and the executive can thus exert a great influence on the judges of the Courts of First Instance thru this power of

assignment. A judge who is a *persona non grata* to the administration, could, as punishment, be sent to what he deems to be an undesirable province.

The Supreme Court of the United States The Supreme Court of the United States is the final court of appeal for judicial cases. It has jurisdiction over the final judgments and decrees of the Supreme Court of the Philippine Islands in all cases in which the constitution or any statute, treaty, title, right, or privilege of the United States is involved, or in cases in which the value in controversy exceeds ₱50,000, or in which the title or possession of real estate worth over ₱50,000 is brought in question. Very few cases can thus be taken to the United States Supreme Court.

The Supreme Court of the Philippine Islands The Supreme Court is the highest court in the Philippines. It consists of nine members, the Chief Justice and eight Associate Justices. They are appointed by the President of the United States, with the consent of the United States Senate. The Court is divided into two divisions to decide ordinary cases, but the more important cases are heard by the entire court. The clerk of the Supreme Court and the reporter of the Supreme Court are its principal officers.

The Supreme Court is in regular session in Manila from the first of July to the first of April of each year. During the vacation period either one of the Justices remains on duty, or a special division of the court decides cases. The Supreme Court has jurisdiction over all cases appealed to it from Courts of First Instance, and over certain original proceedings.

Sessions of the Supreme Court The Supreme Court may sit *in banc* that is, as a body, or it may sit in two divisions. It sits *in banc* for the transaction of any business involving the admiralty jurisdiction of the court, or for the final disposition of a civil case in which the amount in controversy exceeds ten thousand pesos, or a criminal case in which the judgment of the lower court imposed death, or imprisonment for more than ten years, or a fine of more than ten thousand pesos. In all other cases, the Supreme Court can sit in two divisions. The Chief Justice always presides whether *in banc* or in division.

When the court sits *in banc*, six of the judges of the Supreme Court are necessary to form a quorum for the transaction of any business, and the concurrence of five judges must be had for the pronouncement of a judgment. When the Supreme Court sits in divisions, four judges are sufficient to form a quorum in each division and the concurrence of three judges is necessary for the pronouncement of a judgment.

After a decision is rendered by the Supreme Court, a written opinion stating the ground and scope of the judgment is filed with the Clerk of the Court who records it in an opinion book. If the court deems a decision of sufficient importance, it is published in English and Spanish in the Official Gazette and the Philippine Reports. The opinions of judges who dissent from the opinion of the majority may be published upon the request of the dissenting judge. The Reporter publishes the decisions together with a concise synopsis of the facts and the points of law decided by the Court.

Decisions of the Supreme Court

The volumes of decisions of the Supreme Court are known as the "Philippine Reports". They are of great value to lawyers and government officials, for they contain the authoritative and binding interpretation of laws passed both by the American Congress and the Insular Legislature.

The courts of first instance are established thruout the Philippines. For this purpose, the Archipelago is divided into judicial districts. The judicial districts are in charge of judges of first instance and auxiliary judges of first instance. In order to be a judge of first instance or an auxiliary judge of first instance, a person must be not more than sixty-five years of age, must have practiced law in the Philippine Islands or in the United States for a period of not less than five years, or have held during a like period, within the Philippine Islands or within the United States, an office requiring a lawyer's diploma.

Courts of First Instance

One judge of first instance is commissioned for each judicial district except the Ninth Judicial District covering the city of Manila. In the city of Manila there are four judges. A number of the smaller provinces are sometimes comprised within one judicial district.

There are also auxiliary judges of first instance. One of these is commissioned for a group of judicial districts. Auxiliary judges assist the judges of first instance in their respective groups and act as substitutes for judges of first instance in case of their absence.

**Removal and
suspension of
Judges of First
Instance**

Judges and auxiliary judges of first instance serve during good behavior. The Supreme Court, upon its own motion or upon the information of the Attorney-General of the Philippine Islands, may conduct an inquiry into the official or personal conduct of any judge or auxiliary judge of first instance. After hearing the judge in his own defense, the Supreme Court may recommend his removal to the Governor-General. The Governor-General upon sufficient cause may then remove a judge or auxiliary judge of first instance.

**Justices of the
Peace**

A justice and auxiliary justice are appointed by the Governor-General for each municipality and municipal district, and the cities of Manila and Baguio. Upon the recommendation of the Secretary of Justice, the territorial jurisdiction of any justice or auxiliary justice may be made to extend over any number of municipalities or municipal districts or the offices of the justice of the peace for two or more jurisdictions already established may be combined into one. The salaries of justices of the peace range from ₱600 (fourth class municipalities) to ₱3,600 (City of Manila).

Justices of the peace hold office during good behaviour. No person is eligible to appointment as a justice of the peace unless he is (1) twenty-three years of age, (2) a citizen of the United States or of the Philippine Islands, (3) of good moral character, and (4) admitted by the Supreme Court to practice law, or unless he has finished a course of study in a recognized law school or passed the civil service examination for clerk of court, or passed the examination for justice of the peace held in each province by a board composed of a judge of the court of first instance, the provincial fiscal, and a practicing attorney appointed by the judge. In Manila, or any provincial capital, however, only members of the bar are eligible to appointment. When there is no one having the necessary qualifications who is willing to accept the office, the examination requirements are waived.

The auxiliary justice must have the same qualifications and is subject to the same restrictions as the regular justice. He performs the duties of the office during a vacancy or the absence of the justice. In case there is no auxiliary justice, upon the disability of the justice of a municipality, the judge of first instance of the district may designate the nearest justice of the peace in the province to act as justice of the peace.

The Judge of the Court of First Instance exercises supervision over the justices of the peace within his district. During the first five days of the year, the justice of the peace reports to him the business done in his court for the previous year. For good cause, the judge of first instance may reprimand the justice of the peace or recommend to the Governor-General his removal from office and may suspend him from his office pending action of the Governor-General.

A justice of the peace is empowered to try minor offenses and to solemnize marriage, authenticate merchants' books, administer oaths, and take depositions and acknowledgements.

The City of Manila, because of its large population and its large number of judicial case, has a different judicial system from other municipalities. It has not only a justice of the peace court, the same as other municipalities, but also a municipal court not found elsewhere.

**Municipal Court
and Justice of
the Peace Court
of Manila**

The justice of the peace court of the City of Manila is in charge of a justice of the peace appointed by the Governor-General with the consent of the Philippine Senatë. Its jurisdiction over civil cases is identical with that of other justice of the peace courts. Unlike these other courts, however, it has no jurisdiction over criminal cases.

In the City of Manila the small criminal cases are heard in a court called the municipal court. It is in charge of a judge appointed by the Governor-General with the consent of the Philippine Senate.

In the City of Manila and in each province there is an officer known as the sheriff. The clerk of the Court of First Instance acts as sheriff in the City of Manila and in the several provinces of the former Department of Mindanao and Sulu. In other provinces, the duties pertaining

The Sheriff

to the office of sheriff are discharged by the provincial governor, or in case the provincial governor renounces the office, as he usually does, by a person appointed by the Attorney-General upon the recommendation of the Judge of First Instance. Except in Manila, sheriffs are paid by fees. A sheriff may appoint one or more deputies.

The sheriff is the legal custodian of the courthouse and of the property of the court, with the exception of the books, records, and papers which are under the safekeeping of the clerk of the court. The sheriff attends the sessions of the court, preserves good order, and carries into effect the orders of the court. He may arrest any person there disturbing the court or violating the peace.

**The Bureau of
Justice**

The Bureau of Justice is the legal branch of the Philippine governmental machinery. At the head of the Bureau of Justice is the Attorney-General, who acts as the general law officer for the Philippine Government.

The Attorney-General gives official opinions. His advice can be sought by any department of the government on legal matters pertaining to it. The Philippine Legislature also, or either of the two houses, can lawfully require the advice of the Attorney-General.

The Attorney-General prosecutes and defends in any court of justice all causes in which the government of the United States or the Philippine Islands or any officer thereof in his official capacity is a party. He has general supervision over provincial and city fiscals, and prepares rules for their guidance.

**The Provincial
Fiscal**

Ordinarily there is a fiscal for each province. The provincial board can also authorize the appointment of a deputy provincial fiscal. Fiscals are appointed by the Governor-General with the consent of the Philippine Senate. The Attorney-General has supervision over fiscals.

The provincial fiscal is the law officer of the province. He represents the government in the courts. He is the legal adviser of the provincial government and its officers and of the presidents and councils of the municipalities of the province. Usually the fiscal also acts as register of deeds.

The General Land Registration Office, located in Manila, has charge of the land registration system of the Islands. It is under the general supervision of the judge of the fourth branch of the Court of First Instance of the City of Manila and is under the immediate control of the chief of the general land registration office.

**The General
Land Registration
Office**

After the title to land has been secured in a court, the court orders the register of deeds to register the title and issue what is called a Torrens title, after the name of the inventor of the system, an Australian. In the provinces, the fiscals are usually the registers of deeds, and as such are under the jurisdiction of the General Land Registration Office.

There are two ways in which land may be surveyed for registration purposes. One is by private survey, by hiring a surveyor authorized by the government, and once the land is surveyed, by petitioning the Court of First Instance for its registration. The other is for the government itself to survey a large tract of land. This is called a cadastral survey. After it is surveyed, a special judge is assigned to settle all claims to these lands and to issue titles.

The Bureau of Prisons has general supervision over all insular prisons and penal settlements and provincial and sub-provincial jails.

**The Bureau of
Prisons**

The most important of the insular prisons is the famous Bilibid Prison located in Manila, the headquarters of the Bureau of Prisons. The Government also maintains two penal colonies, one the Iwahig Penal Colony at Puerto Princesa, Palawan, and the other the San Ramon Penal Farm near Zamboanga, Mindanao. There is also an insular prison at Fort Mills on Corregidor Island and an insular jail at Bontok in the Mountain Province. Scattered throughout the Islands are about forty provincial and subprovincial jails. The City of Manila maintains a boys' reformatory school and a girls' reformatory school.

The aim of these institutions is to reform inmates and to prepare them for useful citizenship and an honorable position in the community upon their release.

An administrative court, for the purpose of regulating public utilities, has been established under the name of Public Utility Commissioner.

**The Public Util-
ity Commis-
sioner**

"Public Utility" is applied to those corporations or associations,

domestic or foreign, which operate common carriers, like railroads, street railways, steamboats, steamlines and other water craft, public warehouses, cold storage, gas, and electric lights and telephones. To be a public utility, it must be organized for a public use.

When a public utility desires to increase or reduce its rates it must send a written notice to the Public Utility Commission twenty days prior to the effective date of the proposed increase or reduction, and the alteration shall not take effect unless the Commissioner approves it. The Commissioner also has jurisdiction over municipalities, provinces, and departments of the government which operate public utilities. Any person who desires to obtain a franchise to conduct a public utility, must first secure from the Public Utility Commissioner a certificate of the public necessity and convenience of such a franchise. The decision of the Commissioner may be appealed to the Public Utility Commission, made up of the Commissioner, the Attorney-General, and the Director of Public Works. A further appeal may be taken to the Supreme Court of the Philippine Islands.

Notaries Public For the purpose of administering oaths for legal and other important documents, notaries public are appointed. There must be at least one notary public in each municipality. In the provinces notaries public are appointed by the Judge of the Court of First Instance for a term of two years. In Manila, they are appointed for the same period of time by the Supreme Court. To be a notary public, a person must be a citizen of the Philippine Islands or of the United States and over twenty-one years of age. He must also be either admitted to practice law or be a graduate of a recognized law school, or have passed the examination for the office of justice of the peace or clerk of court, or be a person who was qualified to be a notary public under the Spanish administration.

Suits against the Government

The Government of the Philippine Islands cannot be sued by an individual without its consent. The permission must be given by a special Act of the Legislature acknowledging the consent of the government to be sued in the courts. Local subdivisions, however, such as provinces and municipalities, can sue and be sued, as expressly provided by law.

CHAPTER IX

FINANCE

Economists have estimated that from ten to twenty per cent of the people's income goes to the government. A detailed study of how the government spends that much money should therefore be of more than passing interest, especially in a democratic community like ours.

Two systems of finance

There are two principal systems of government finance in existence. One is the so-called congressional system, which exists in the United States, and the other is the so-called budgetary system, which exists in practically every other country with a constitutional government. Before we can describe our system of finance, past and present, we must distinguish these two types.

The American congressional system has been built on the theory of the strict division of governmental powers. Under that system, Congress is supposed to initiate and be responsible for the fiscal measures of the government, while another branch of the government, the executive, is supposed to carry out those measures. The executive is entirely independent of the Legislature.

The American congressional system

A rough sketch of the course of appropriation measures in the American Government is as follows: Each department files with the treasury an estimate of the money it desires to have. The treasury simply collects these estimates and sends them to Congress asking that the sums specified therein be appropriated. The Secretary of the Treasury acts only as a clerk who compiles all the data. He is not responsible to the country for the amount he and the other departments have asked. The country does not look to him or the President for economy in the government or for the carrying out of public improvements. Congress has the absolute power to determine how much money shall be ex-

pended. The estimates sent to Congress are referred, not to one committee who could look broadly at the proposition, but to a number of independent and separate committees. Each committee reports to Congress and endeavors to pass its bill, without taking into consideration whether the appropriation asked for is warranted by the revenue that may be had in the ensuing year by the Government. The revenue is to be raised by an entirely different committee, that of ways and means.

Business men and students of finance have condemned the American system. The expenditures are made with little reference to the revenues that may be collected. As legislation in America is mostly legislation by committees, the result of the financial system is that one set of men spends the money, and an entirely different set raises it. The Secretary of the Treasury and the heads of the departments who should know the real needs of their departments and of the country at large are not responsible to the country for any fiscal policy that they may have. The President can do nothing because while he may detect extravagant items and ridiculous sums, if he vetoes at all he will have to veto the entire bill. This he cannot very well do without stopping the whole governmental machinery.

Lord Bryce has said of the American Congressional system: "Under the system of congressional finance here described America wastes millions annually. But her wealth is so great, her revenue so elastic, that she is not sensible of the loss. She has the glorious privilege of youth, the privilege of committing errors without suffering from their consequences."¹

The English budgetary system In direct opposition to the American system is the English budgetary system. In England it is the executive, or rather the Cabinet, which initiates budgetary legislation; the Parliament is a mere controlling body.

The estimates are prepared by the executive. The Chancellor of the Exchequer, or Secretary of Finance, revises all estimates of the different departments, criticizes these estimates, and even cuts them down. He has in his hands estimates of probable revenues and therefore can harmonize the possible income and expenditures. If the other departmental heads do

¹ Bryce, *The American Commonwealth* (New ed., 1911) Vol. I, pag. 184.

not agree with him as to his suggestions, the matter is brought up before the cabinet for final decision. The cabinet, at the suggestion of the exchequer, decides the fiscal budget, or plan, for the support of the government for the coming year. Once the budget is decided upon in the Cabinet, it is presented to Parliament by the Chancellor of the Exchequer. He states to Parliament the estimates of expenditures for the support of the government and other public improvements and tells them what new taxes are necessary to carry out the plan.

Sitting as the committee on supply and the committee on ways and means, the House of Commons discusses in detail all the different estimates and the proposed revenues. The respective secretaries of departments explain to Parliament the different amounts they ask and the reason why they ask for them.

In short, the cabinet or the executive department takes the initiative in financial measures and Parliament has only the veto power, as it were. Under the American financial system Congress takes the initiative and the executive, thru the President, has the veto power. It is just here that the fundamental difference exists between the American system and the English system.

Under the English constitutional system, no appropriation can be voted unless the administration accepts responsibility for it by a specific recommendation. The rule of order of the House of Commons governing this matter dates back to July 11, 1713. It is now the oldest of the standing orders of the House of Commons. It runs as follows: "This house will receive no petition for any sum relating to public service, or proceed upon any motion for a grant or charge upon the public revenue . . . unless recommended by the Crown." This rule is construed as prohibiting any motion to insert an item in an appropriation bill, or to increase any item beyond what has been asked by the government. A similar provision appears in all constitution of British make, so that it may be regarded as the English constitutional hallmark.

A government budget, in the proper sense of the word, is a plan for financing the government during a definite period, prepared and submitted by a responsible executive to a representative body whose approval and authorization are necessary before the plan may be executed.

Essentials of a budget

It is something more than an "estimate" or "statement" of financial conditions. It is a definite proposal to be approved or rejected. It should comprehend the fiscal program for the ensuing year and should exhibit at the same time the amount of revenues to be raised in accordance with the plan and the sources from which these funds are to be drawn. It should contain these details and specifications for the knowledge of the approving body or legislature. "There must be a correlation between revenue and expenditures and between the various items of expenditures, and this information should be in the hands of the legislator with respect to every project upon which he is expected to give an opinion. Finally, a proper budgetary system involves an audit of all fiscal accounts, in order to determine with what economy previous appropriations have been spent. The preparation of the estimates, their authorization by law, and their audit comprise the cycle to be found in every efficient budgetary system."²

**Past financial
system in the
Philippines**

Nearly all struggles for constitutional government have centered on the control of the public purse. It was the greatest issue in the struggle between King John and the English Barons. As a result of the struggle the Magna Charta provided that "no scutage (tenant's tax) or aid (contribution) shall be imposed except by the common council of the nation." In the American Revolution the battle cry was that taxation without representation is tyranny. That voice was reechoed in France when in 1789 the people's control over the revenues was declared to be one of the "prerogative laws of the state."

The Philippine Bill of 1902 provided that all appropriations must be made by law. (Sec. 5, par. 15.) This apparently gave the Philippine Assembly, established in 1907, co-equal power with the Philippine Commission on money matters. But such was not the fact. The other provision that in case of a deadlock on an appropriation bill the entire sum appropriated the year before shall be considered as appropriated for the ensuing year (sec. 7, par. 3), gave the Governor-General almost dictatorial power in fiscal matters. He could create offices in defiance of the opposition of the representatives of the people, and could

² Lowrie, *The Budget*, pages 12, 13.

dispose in whatever way he wished of all the money of the government so long as the entire sum did not exceed the sum previously appropriated. Thus while other popular legislative bodies had the distinction of commanding and controlling all money bills, serving thereby as a great check upon the executive, the Philippine Assembly was deprived of this function and was, as a result, a considerably weaker body than most legislative assemblies.

Under the circumstances the budget system could not have been established. There was no executive responsible, or who could be made responsible to the Filipino branch of the Legislature, and to whom the preparation of the budget could be entrusted. Nay, it was even more advantageous for the Filipino people to demand one principle of the Congressional system; the initiation of all money bills in the lower house. This demand after a long struggle with the Commission was gained, altho with no great advantage, for there being constant deadlocks between the two houses on appropriation bills, the fiscal power remained practically in the hands of the Governor-General.

That there was a lack of a systematized plan in our previous financial system can be easily seen in the number and nature of appropriation bills annually passed by the Philippine Commission and the Philippine Legislature. From April 3, 1915, to March 16, 1916, for instance, thirty-seven Acts were passed carrying a total appropriation of over 38,000,000 pesos. These acts showed a lack of systematized groupings of objects for the easy comprehension of the public or the legislature.

The procedure followed in the submission and preparation of estimates was similar to the American Federal practice. Thirty days before the opening of the regular session, each bureau chief sent to the Executive Secretary a statement of the receipts and expenditures of his bureau or office during the year and an estimate of the receipts and necessary expenditures thereof for the ensuing fiscal year. Like the Secretary of the Treasury of the United States, the Executive Secretary simply compiled these estimates and sent them to the legislature. He had no power of revision or coordination. There was no executive responsible for the fiscal plan of the government. Bills appropriating money were considered on their

The old procedure

individual merits, and not on a well-defined fiscal plan for the entire country.

Such, in brief, was the system of government finance in vogue prior to the enactment of the Jones Law.

The new system The coming of the Jones Law did not immediately solve the problem. The Law did not provide for a budgetary system, and there were some who doubted whether it could be made possible under its provisions.

Section 21 of the Jones Law states that, "The Governor-General shall submit to the Philippine Legislature within ten days of the opening of each regular session a budget of receipts and expenditures, which shall be the basis of the annual appropriation bill." This provision and the fact that the Governor-General still retained, according to law, supreme executive power, created in the minds of some the doubt as to whether the Executive could be entrusted with the framing of the budget. The establishment, however, of a Cabinet largely responsible to the Legislature overcame the objection.

But there was another difficulty. Under section 21 of the Jones Law, it is the Governor-General who is to submit a "budget of receipts and expenditures." Should he and not the Cabinet draft the budget? In the former case, the Legislature might not be willing to give up its prerogative of preparing financial measures. Again, the Governor-General came to the rescue, and following the generous spirit of the Jones Law, delegated the formulation of the budget first to the Cabinet and later to the Council of State. The old practice of having bureau chiefs prepare and submit estimates was changed. Their estimates must now go to the department secretary and then to the Department of Finance for revision. The Governor-General, in a message, sends the budget as prepared by the Council of State to the Legislature for approval, amendment, or rejection.

Before the preparation of the budget, a general line of policy is first agreed upon by the Council of State. Once the general policy is decided, a circular is sent in July to all offices and bureaus requesting them to send in their estimates, which should include the probable receipts and the proposed expenditures for the coming year. These estimates are made under the supervision and control of the department heads who have the power

to cut down or add items. These different estimates are then submitted by the department heads to the Secretary of Finance not later than August 20th, of every year. The main work of the Department of Finance is to coordinate the different departmental estimates in accordance with the general plan agreed upon at the council meeting. It often happens that a certain item submitted by a departmental head is already duplicated by another item from a different department. Any conflict between a departmental head and the Secretary of Finance is submitted to the Council of State for decision. The final budget is approved at the meeting of the Council.

Once the budget is definitely approved by the Council of State, the Governor-General submits it with a message to the Legislature. The message is read by the Secretary of Finance in a joint session of the Legislature.

**Submission to
the Legislature**

The lower house, by agreement with the upper, is the first one to take up the budget. It sets a date for the appearance of the Secretary of Finance to explain the details of the budget and to answer all questions propounded by the members. This appearance usually lasts a number of days and full opportunity is given the members especially those of the minority party to discuss the several items of the bill. To explain further the details of the budget, the individual departmental secretaries may be called, altho this is not often done, the Secretary of Finance generally assuming responsibility for the whole budget. It is the accepted rule in the discussion of the budget that the Legislature may diminish the estimates, but may not increase them.

Once the budget is approved in principle, it is sent to the Committee on Appropriations with instructions to draft the appropriation bill in accordance with the budget. This Committee again examines the different items of the budget, and then frames and submits its appropriation bill. The Committee generally follows the instructions of the House and suggests in its bill only those changes that are absolutely necessary. When the appropriation bill is approved by the House, it is sent to the Senate, where the Secretary of Finance again appears to explain the different items contained therein.

The financial plan of the Council of State does not cover all the proposed financial activities of the government. It

usually leaves a surplus for the Legislature to appropriate the way it pleases. This takes the form of new ventures and activities. The totality of the English budgetary principle is not, therefore, as yet followed, whereby all requests for money must come from the executive. But a long and decisive step has already been taken towards financial reform.

Budget of the Government of the Philippine Islands for the Fiscal Year, 1921.

RECAPITULATION

| | Fiscal year 1921 (estimated) Pesos | Fiscal year 1920 (actual) Pesos | Fiscal year 1919 (actual) Pesos |
|--|---|--|--|
| Income | 84,289,932.00 | 73,694,016.82 | 78,019,153.33 |
| Revenue from taxation | 56,036,000.00 | 48,391,760.00 | 45,229,969.10 |
| Incidental revenue | 4,681,600.00 | 4,101,300.00 | 3,706,882.42 |
| Earnings and other credits | 23,572,332.00 | 21,200,956.82 | 29,082,301.81 |
| Current Surplus at the Beginning of the Year | | 24,803,881.30 | 32,868,312.07 |
| Total Available for Expenditures | 84,289,932.00 | 98,497,898.12 | 110,887,465.40 |
| Expenditures | 83,549,778.00 | 82,014,111.38 | 86,083,584.10 |
| Expense of revenue collection | 1,688,370.00 | 1,744,110.39 | 1,516,970.64 |
| Operating expense of commercial and industrial units | 14,502,504.00 | 14,605,411.24 | 12,851,210.24 |
| Public debt | 3,459,281.00 | 2,728,560.00 | 2,276,517.71 |
| General administration | 5,202,098.00 | 4,994,223.05 | 4,782,416.73 |
| Protective service | 10,373,411.00 | 9,707,442.96 | 11,525,611.90 |
| Social improvement | 9,093,423.00 | 8,608,808.77 | 7,699,090.83 |
| Economic development | 10,437,851.00 | 10,034,664.04 | 11,807,526.62 |
| Aid to local governments | 15,347,095.00 | 14,245,420.07 | 13,738,758.67 |
| Retirement gratuities, Act 2589 | 600,000.00 | 750,000.00 | 806,014.27 |
| Emergency service | 3,000,000.00 | 1,000,000.00 | |
| Outlays and investments | 9,845,745.00 | 13,595,470.86 | 19,079,466.49 |
| Current Surplus at the end of the Year | 740,154.00 | 16,483,786.74 | 24,803,881.30 |
| Deduct—Appropriation balances for public works | | 12,248,407.44 | |
| Current Unappropriated at the End of the Year | | 4,235,379.30 | |

Income The income of the central government is derived from three main sources: First, customs dues; second, internal revenue taxes; and third, earnings of governmental enterprises and activities and interest from special funds.

Philippine Tariff The United States may from time to time enact tariff measures which place the Philippines on a different footing from that of a state of the Union. For instance, the Payne Act of 1909 provided for free trade between the United States and the Philippines subject to restrictions on

some products, like sugar and tobacco. By the Underwood Act of October 3, 1913, however, complete free trade between the United States and the Philippines was declared. The Jones Law authorizes the Philippine Legislature to enact tariff laws with reference to countries other than the United States, but tariff relations between the United States and the Philippines must be under the sole control of Congress.

The Philippine Legislature has not yet materially changed the tariff law known as the Underwood Tariff Law, which is still in effect. The duties imposed by the existing law on goods imported from foreign countries are relatively low. The average duty imposed is about twenty-five per cent, *ad valorem*. For instance, the *ad valorem* rate on porcelain and earthen ware is from ten to fifty per cent; on cutlery from twenty to thirty per cent.; and on paints, dyes, and varnishes from ten to twenty per cent.

Because of these low duties, we may say that our tariff is, with the possible exception of the tariff on rice, a tariff for revenue only as distinguished from a tariff for protection. A tariff for protection is generally higher and has in view not only the raising of revenues for the government but also the protection of home industries. Because the Philippines is not a manufacturing country no necessity has been found to raise the tariff for the protection of home industries.

In the year 1918, the import duties of the Philippines amounted to ₱13,479,736.56. The collection of tariff duties is in charge of the Bureau of Customs. The principal ports of entry in the Philippines are Manila, Iloilo, Cebu, Zamboanga, and Jolo.

The internal revenue taxes are as follows:

Internal Revenue

1. *The cedula tax*.—This is paid by all male inhabitants of the Philippines over the age of eighteen and under sixty, excepting officers, soldiers, and employees of the Federal government of the United States, the diplomatic and consular representatives or officials of foreign powers, paupers, insane persons, imbeciles, persons serving a sentence of more than one year in prison, and the non-Christians under certain conditions. The cedula tax is one peso, altho in the provinces it is generally raised, upon resolution of the respective provincial boards, to two pesos.

Cedulas serve as certificates of identification; those who vote for public officers must have cedulas; those who appear in court must present them; and they must be shown whenever one transacts business with a public officer, pays taxes, receives money from public funds, assumes public office, or receives any license or permit from any public authority.

2. *The documentary stamp taxes.*—As the name implies, these taxes are collected and paid by the purchase and affixture of documentary stamps upon documents, instruments and other valuable papers by the person making, signing, issuing, accepting or transferring the said documents and papers.

3. *The privilege taxes.*—These apply to business and occupations, such as, merchants, manufacturers, distillers, brewers, liquor dealers, lawyers, doctors, engineers, etc. The tax on occupations and on some business is fixed while other business taxes are both fixed and percentage.

4. *Specific taxes.*—These are sometimes called excise taxes and apply to things manufactured or produced in the Philippine Islands for domestic sale or consumption and to things imported from the United States or foreign countries. Articles subject to these taxes are distilled spirits, wines, fermented liquors, cigars, cigarettes, etc.

5. *Taxes on resources of banks, receipts of insurance companies and receipts of corporations paying a franchise tax.*—Under these, the banks are taxed upon the amount of capital employed, the average amount of deposits and the average amount of circulation issued. Insurance companies are taxed on the total premiums collected. Corporations paying a franchise tax are taxed on the gross earnings and receipts.

6. *Charges for forest products.*—These are collected from timber, firewood and other minor forest products cut and gathered from public forests.

7. *Fees for testing and sealing weights and measures.*—Before any weight or measure can be used for any commercial purpose, it must be first tested and sealed.

8. *Internal revenue, including the income tax.*—From March 1, 1913 to December 31, 1918, the income tax law enforced in the Philippine Islands was the income tax of the United States. Since January 1, 1919, the income tax law passed by the Philippine Legislature has been in operation.

9. *Ad valorem tax on the output of mines.*—This tax is on the gross output of each mine determined by its actual market value.

10. *The tax on inheritances, legacies and other acquisitions mortis causa.*—This tax is on the transfer of property located in the Philippine Islands whether real or personal, tangible or intangible.

The collection of all internal revenue taxes is in charge of the Bureau of Internal Revenue.

The expenditures of the Philippine government have been classified in the budget into the following items:

**Expenditures of
the Philippine
Government**

1. Expense of revenue collection.
2. Operating expense of commercial and industrial units.
3. Public debt which consists of interest on public debt, payments to sinking funds, and repayment of loans.
4. Expenses of general administration as divided into executive, legislative and adjudication purposes.
5. Protective service, such as national defense, law and order, public health, suppression of animal diseases and plant pests, etc.
6. Social improvement, consisting of public education, public correction, public charities, and other social improvement.
7. Economic development, which consists of conservation of natural resources, development of commerce, development of agriculture, and the development of arts and sciences.
8. Aid to local governments.
9. Retirement gratuities, or money paid to retiring officials.
10. Emergency service as disposed by the Emergency Board.
11. Outlays and investments, consisting of the construction and purchase of equipment, corporate investments, and advances to railway companies under guaranty contracts.

The total expenditure is close to ₱100,000,000 (\$50,000,000) annually.

The Jones Law (sec. 11) provides that the entire indebtedness of the Philippine Government shall not exceed the sum of ₱30,000,000 (\$15,000,000), exclusive of the friar land bonds.

**The debt of the
Philippines**

As obligations

of the latter class have been issued in the amount of ₱14,000,000 (\$7,000,000), this means that the limit of the debt of the Philippine Islands is ₱44,000,000 (\$22,000,000). In comparison with the debts of other countries, the debt of the Government of the Philippine Islands reaches an insignificant total.

The Jones Law further provides that any province or municipality may incur an indebtedness in a sum not in excess of seven per centum of the total tax valuation of its property. When a province or municipality desires to issue bonds, it must secure the favorable recommendation of the Secretary of Finance and the approval of the Council of State. The money secured from the bonds can then be used for the purpose of acquiring or constructing permanent improvements.

**The emergency
board**

Every year a sum is set aside for the emergency service. The sum asked for in 1920 was ₱3,000,000 (\$1,500,000). This money is in charge of the Emergency Board, which is composed of the chairman of the finance committee of the Senate, the chairman of the committee on appropriations of the House, the Secretary of Justice, the Insular Auditor, and the Secretary of Finance, the latter to act as the chairman.

The work of the Emergency Board is to receive and study the petitions for extra funds from bureaus or offices confronted with emergency expenditures unlooked for at the time of the enactment of the Appropriation Law. The Emergency Board reports to the Governor-General and the presiding officers of both houses who have the final say on the disbursement of the fund.

**The Bureau of
Audits**

The President of the United States appoints an Auditor and a Deputy Auditor to have charge of the Bureau of Audits. The Auditor is under the general supervision of the Governor-General. In case of the absence of the auditor and the deputy auditor the Governor may designate an assistant who shall have charge of the bureau.

The Auditor has the duty of auditing, examining, and settling all accounts pertaining to the revenues and receipts of the Philippine Government, and of the provincial and municipal governments of the Philippines. He also audits the expenditures of all funds or property held in trust by the provinces or munic-

ipalities. It is the duty of the Auditor to bring to the attention of the proper administrative officer expenditures of funds or property which, in his opinion, are irregular, unnecessary, excessive, or extravagant. He has the power to summon witnesses, administer oaths, take evidence, issue subpoenas, and force attendance of witnesses. The Bureau of Audits can also settle accounts between the bureaus and investigate the accounts of any railroad company or corporation operating in the Philippine Islands. The Bureau of Audits thus acts as a check on all the different branches of the government so that all expenditures not authorized by law may be avoided.

The jurisdiction of the Auditor over all accounts is exclusive. The party aggrieved or the head of the Department, however, may, within one year, appeal in writing to the Governor-General. In case the Governor-General confirms the action of the Auditor then the decision is final, but should the Governor-General fail to sustain the action of the Auditor the case will be sent to the Secretary of War for final decision.

The Bureau of the Treasury is charged with the safekeeping of government funds, the supervision of banks, banking, and currency, and the administration of the laws of the United States and of the Philippine Islands relating to coinage and currency. The Insular Treasurer is the custodian of all governmental funds in the Insular Treasury. He also receives special deposits of money or securities from individuals in connection with governmental transactions. The Governor-General designates certain banks in the United States as depositaries of funds of the Philippine government.

**The Bureau
the Treasury**

The Insular Treasurer has administrative control over the loan and investment of funds in the Insular Treasury. Some of these lendable funds are the sinking funds created by insular appropriation, the property-insurance fund, the fidelity fund, the land-registration assurance fund, and the provincial, municipal, and public-improvements fund.

The Treasurer makes a daily statement to the Auditor of the receipts and disbursements of treasury funds. He also forwards to the Secretary of War and to the Secretary of Finance a monthly report of moneys received and disbursed during the month.

Philippine money The Philippine peso represents the standard of value of a theoretical gold peso of the value of a half of the United States dollar. Practically the Philippines is on the so-called gold standard basis. In other words, our money represents the value of gold. The Philippine peso represents 12.90 grains of gold, yet it is silver, which may be puzzling. But it stands for the definite standard of gold. In order to maintain the parity of the actual peso or silver certificate and the theoretical gold, a gold standard fund has been created. In case the gold represented in our silver peso should by the fluctuation of the market be worth more, then there would be money to back up our currency.

Heretofore Philippine money has been coined in the mints of the United States, but the Philippine Legislature recently passed a law creating the Philippine Mint. The Philippine Mint is now coining money for the Islands.

The Insular Government and some banks are allowed to issue paper money under certain conditions.

CHAPTER X

DEPARTMENTAL ACTIVITIES

The administration of the Philippine Government is carried on by the six executive departments: the Department of the Interior, the Department of Public Instruction, the Department of Finance, the Department of Justice, the Department of Agriculture and Natural Resources, and the Department of Commerce and Communications. There are, however, four other officials, as we have seen, who are considered department heads with respect to the offices under them. They are the Governor-General, the Chief Justice of the Supreme Court, the President of the Senate, and the Speaker of the House of Representatives. Each of the six departments has control or direction of the bureaus and offices under its jurisdiction.

Departmental Organization

Each bureau has usually a director or chief who exercises, subject to the executive control, direction and supervision of the proper department head, general authority in all matters within the jurisdiction of the bureau. He may be aided by one or more assistant directors. Every bureau chief has the power, subject to the departmental control, to prescribe regulations or general orders to secure the harmonious and efficient administration of his bureau and fulfill the laws pertaining to the jurisdiction of his bureau. He may employ or discharge minor subordinates subject to the general control of the department head. In his absence and in that of the assistant director, the department head may designate as acting chief the under-secretary of the department or any officer or employee of the department. For the proper division of the work of the bureau it may be divided into divisions and sections.

All chiefs of bureaus and heads of offices of the Insular Government render annual reports early in January or as soon as practicable thereafter to their respective heads of depart-

ments. These reports may, upon the decision of the department heads, be printed. The reports generally contain statements of the work and expenditures of the bureau or office during the fiscal year, and recommendations as to the future including plans of specific works to be undertaken.

1. THE DEPARTMENT OF THE INTERIOR

Functions of the Department of the Interior The functions of the Department of the Interior may be classified into two parts: those which pertain mostly to cooperation with the other departments of the government in the carrying out of governmental activities and policies and those which pertain to its exclusive jurisdiction.

Having supervision over all the provincial and local governments throughout the Archipelago, the Department of the Interior is naturally the one called upon to cooperate with the other departments and to be the instrumentality by which the policies and measures entrusted to other departments may be effectively carried out in all the provinces, cities, municipalities, and municipal districts of the Philippines. The result is that the Department of the Interior is obliged to intervene in many important governmental measures. It has taken an active part in the food campaign, in securing men for the National Guard, in the selling of Liberty Bonds, as well as in other activities.

The most important duty of the Department is the supervision of the local government and the keeping of order in them. This is why the Executive Bureau, the Bureau of Non-Christian Tribes, the cities of Manila and Baguio, and the Philippine Constabulary are under this Department. Other bureaus and offices under the department are the boards of Pharmaceutical, Dental, and Medical Examiners, the Board of Examiners for Nurses, and the Bureau of Dependent Children.

Most of the work of the Department is done through the chiefs of bureaus and offices under its control. There are, however, provisions in the Administrative Code which require definite action by the Department. Thus, requests for authority to exceed the limit prescribed by law for salaries of municipal and provincial officials and employees, provincial loans to munic-

ipalities, boundary disputes, and the reimbursements of salaries of suspended officials are subject to the direct action of the Secretary of the Interior.

The Executive Bureau exercises control over the provinces, municipalities, municipal districts, and other political subdivisions which are not under the supervision of the Bureau of Non-Christian Tribes. On March 1st, 1921, there were thirty-seven regular provinces, eight hundred eighty-nine municipalities, and two hundred ninety-eight municipal districts.

**The Executive
Bureau**

In supervising the provincial and municipal governments, the Executive Bureau acts in the nature of an administrative court, which decides cases against provincial and municipal officials. In 1919, for instance, there were administrative proceedings against one provincial governor and three provincial treasurers. One of the latter, having been found guilty, was removed from office. There were in the same year, fifty-nine administrative cases filed against municipal officials of whom twenty-nine were found guilty.

The Executive Bureau, with the cooperation of the Department of Finance, supervises the loans made to the provinces and municipalities for permanent improvement projects. The Executive Bureau also regulates the work of election officers and issues instructions to them as to the holding of elections. It gives advice as to the proper interpretation of the Election Law, and receives complaints of election irregularities.

The Secretary of the Interior, through the Executive Bureau, undertakes and suggests measures to the different provincial and municipal governments in the form of proposed ordinances, and requests a more strict performance by local officials of their duties as required by law. The department head may, for instance, through the Executive Bureau, call the attention of the proper officials to violations of gambling laws. During the rice crisis in 1919 officials under the Executive Bureau, like provincial governors and treasurers, were made agents of the Secretary of Commerce and Communications for the carrying out of the rules and regulations regarding the seizure of rice. In the food production campaign, the Executive Bureau was the vehicle through which the provincial and municipal governments were furnished the facts concerning the rice shortage and were urged

to stimulate greater production. The Executive Bureau is therefore not only a supervisory organ, but it is also the instrument by means of which the central government reaches the regular provinces and municipalities for the carrying out of urgent movements of national importance.

The Executive Bureau distributes funds to provinces for the relief of sufferers of earthquakes, fire, flood, typhoon, and other public calamities. In the years 1918 and 1919 nearly ₱300,000 were distributed for these purposes.

The Executive Bureau handles the accounting and book-keeping of other offices under the Department of the Interior, such as the Boards of Medical and Dental Examiners, the conventions of physicians and pharmacists, and the sugar central board. It maintains a translating division for the use of all departments of the government. It is the repository of the records and documents of the other departments.

The Bureau of Non-Christian Tribes The Bureau of Non-Christian Tribes had its origin in section 22 of the Jones Law. It is intrusted with the supervision of the parts of the Philippines inhabited by non-Christian peoples, which are the Mountain Province, the Province of Nueva Vizcaya, and the provinces in what was before the Department of Mindanao and Sulu.

The bureau is in charge of a director. The director is authorized to expend public funds set aside for the purpose by the Philippine Legislature and to appoint and remove certain officers and employees. He supervises the provincial and municipal governments and municipal districts; looks after the execution of the laws; and remits the collection of the land tax in whole or in part. He prescribes rules and regulations, with the approval of the Secretary of the Interior, conducive to the public interest and general welfare of the provinces. In case of disturbances, he may invite the Governor-General to request the assistance of the Federal troops, and in great emergencies, he may call directly upon the nearest commanding officer of the United States military forces.

The Philippine Constabulary is a general police force under military discipline. The Constabulary forces were established for the purpose of keeping order. They help the municipalities and cities in quelling disturbances and in capturing criminals.

**The Philippine
Constabulary**

The Philippine Constabulary has various other important duties to perform. Thus, it superintends the issuing of licenses for the possession and use of firearms. At election time, it guards the precincts and ballot boxes. During a rice crisis, the Constabulary was called upon to assist in the seizing of rice and other grain stock and in distributing this cereal to the different communities. Constabulary soldiers also serve the other bureaus of the government as quarantine guards, prison guards, and provincial treasurers' escort.

There are now over five thousand constabulary soldiers divided into a number of constabulary districts practically coextensive with the provinces. There is a cadet academy at Baguio where prospective constabulary officers are trained.

The Philippine General Hospital in the city of Manila provides for the treatment of emergency and other patients, maintains a free medical service for the poor, and gives opportunity for training medical students of the University of the Philippines. The Hospital also gives courses for the training of nurses, which are, however, subject to the visitation of the Board of Regents of the University of the Philippines. The Director of the Hospital has supervision not alone over the Philippine General Hospital but also over hospitals of the same nature established in other parts of the Philippines, such as the Cebu Hospital.

**The Philippine
General Hos-
pital**

For many years no effort was made to coordinate the efforts of public and private agencies which were interested in public welfare or social service work. Eventually, however, the Public Welfare Board and the Bureau of Dependent Children were authorized. Recently these offices were abolished and the governmental activities were concentrated under an officer known as the Commissioner of Public Welfare.

**The Commis-
sioner of Public
Welfare**

The Commissioner of Public Welfare is appointed by the Governor General with the consent of the Philippine Senate. He

performs his powers and duties under the immediate executive supervision of the Secretary of the Interior. An office is maintained in the City of Manila for the conduct of business, for the investigation of social conditions, and for the dissemination of publications. Social centers and other agencies are established and maintained throughout the Islands. Sums of money or properties are received and expended to take care of charity cases or for other general public welfare purposes. The money appropriated by the Legislature for the protection of infants is distributed by this office. The Commissioner of Public Welfare also acts in an advisory capacity to the Secretary of the Interior in all matters pertaining to public charity and welfare, appoints and organizes committees of citizens to help him in his work, and submits to the Department Head an annual report.

What was before known as the Bureau of Dependent Children is now a division of the office of the Commissioner of Public Welfare. An institution has been provided at San Pedro Macati near Manila where children without other means of support are looked after and educated. Orphaned or needy children are there given an education in a useful trade or occupation. Children who are invalids are provided with the necessary care.

Children admitted to the institution or committed to the same by the courts of justice are educated and reformed.

II. THE DEPARTMENT OF PUBLIC INSTRUCTION

Creation of the Department of Public Instruction

The Department of Public Instruction is the only department which is provided for in the Jones Law. (Section 23.) By the provisions of that law it includes the Bureau of Education and the Bureau of Health (Philippine Health Service). The only other Bureau that has been placed under it by the Legislature is the Bureau of Quarantine Service. The Department naturally also supervises the private schools. The other bureaus which were under the old Department of Public Instruction have been transferred to other departments.

The Vice-Governor is made the head of the Department of Public Instruction by the Jones Law.

The Bureau of Education administers the public school system. There is a Director of Education and an Assistant Director. The Director of Education has by law the following powers and duties:

**The Bureau of
Education**

(a) He shall establish elementary schools in every town in the Islands, where practicable.

(b) He shall have authority to establish night schools.

(c) He shall fix the salaries of teachers within the limits established by law.

(d) He shall fix the curricula for all public schools under his jurisdiction.

(e) He shall prescribe the authority to be exercised by the principal teacher of each school over the other teachers, if any, and his duties as teacher while actually engaged in the work of instruction and in caring for the schoolhouse and school property.

(f) He shall approve plans for the construction of school-houses to be built by the municipalities or provinces, and shall fix the amount of land required in each case.

(g) He shall prescribe rules of hygiene to be observed in connection with the schools of the Islands.

(h) He shall have power to determine the towns in which teachers, to be paid out of the Insular Treasury, shall teach; and he may exercise this discretion in favor of those towns which shall construct and maintain suitable schoolhouses by local taxation or contributions.

(i) He shall maintain, in Manila or elsewhere in the Philippine Islands, classes to furnish superior instruction to teachers, as may be by law allowed or required.

The Director of Education, with the approval of the Secretary of Public Instruction, divides the Philippines into as many school divisions as may be required. A division superintendent of schools is assigned to each school division. The Superintendent exercises general control over the public schools and school interests in the division; appoints municipal teachers and fixes their salaries from year to year within the limits of the funds appropriated by the municipal council; requisitions from the general office of the Bureau the supplies and textbooks needed for his division; requires compliance with the curriculum of the schools; and controls the uses of the municipal and provincial school buildings.

School Divisions

For school administration one or more municipalities may constitute a school district. A supervising teacher is in charge. It is the duty of the municipal

**Local School
Districts**

government to make ample provision for the support of all the schools established within its jurisdiction.

In every municipality there is a school board consisting of four or six members, as the division superintendent may determine, in addition to the president of the municipality, who is a member *ex-officio*. One-half of the members, except the president, are elected by the municipal council, and one-half are appointed by the division superintendent. The term of office of all the members who hold their position by appointment or election is two years and until their successors are duly elected and appointed. It is provided that at least one elective and one appointive member shall be women, thus making two or more members of the school board women. The local school board visits the schools of the town and reports to the division superintendent as to the condition and attendance of the pupils; recommends sites and plans to the municipal council where schoolhouses are to be erected; adopts rules, subject to the supervision of the division superintendent, where there are two or more schools in the town, for assigning the pupils of the towns to several schools; and reports annually to the municipal council the amount of money which should be raised for the current year by local taxation for school purposes.

Types of Schools There are generally four types of schools under the Bureau of Education: primary, intermediate, secondary, and special schools for vocational purposes. The primary and intermediate courses are included in the elementary schools. The secondary courses are divided into general, normal, housekeeping and household arts, commercial, and agricultural courses.

The Bureau of Education has also provided special schools for vocational purposes, such as farm schools, agricultural schools, settlement farm schools, industrial schools, the Philippine Normal School in Manila, the Philippine School of Commerce in Manila, Nueva Ecija, the School for the Deaf and the Blind in Manila, the Philippine Nautical School in Manila, and the Philippine School of Arts and Trades in Manila.

Importance of Public Instruction No other activity has received such encouragement from both the people and the government as the public school system. The first act passed by the Philippine Assembly was the appropriation of one

million pesos for the erection of public school buildings. About twenty per cent of the revenues of the government are spent for school purposes.

The Bureau of Education is much larger than any other government bureau or organization in the Philippines. The number of teachers employed exceeds 22,000. The schools number approximately 7,000, in which are enrolled nearly 1,000,000 pupils. The total expenditures for the support of the public schools reaches ₱15,000,000.00 and it is planned to increase the annual appropriations year by year until at least 1,500,000 children are attending school regularly.

The work of the Bureau has not been confined to classroom instruction and administration of schools. Much has been done thru the schools to promote civic enterprises which have had for their object the welfare of the people in general. The people of the entire Islands, especially in remote municipalities and *barrios*, have been enlisted in public welfare movements by the teachers of the public schools. Chief among these activities are the civico-educational lectures given in every community, food and Red Cross campaigns, and cooperation with other bureaus, especially in work pertaining to agriculture and health.

A considerable portion of Filipino students receive instruction in private schools. Some of these private schools, like the University of Santo Tomas, for instance, which was founded in 1619, have been in existence for a long time, while others, like the Silliman Institute of Dumaguete, have only recently been started.

The Private Schools

The private schools are under the supervision of a superintendent of private schools, an official directly under the Secretary of Public Instruction and responsible to him. The Secretary of Public Instruction has power to recognize private schools and to withdraw such recognition if the instruction given by them is found deficient. Generally the aim of the government is to have the private schools follow the same plan of courses as the public schools.

As now constituted, the Philippine Health Service represents the culmination of a series of sanitary reorganizations dating as far back as September 29, 1898, when the first board of health in the

The Philippine Health Service

Philippine Islands, after American occupation, came into existence. In 1905, the bureau of health was created and in 1915 it became the Philippine Health Service.

The Philippine Health Service looks after the sanitary conditions of the country. It supervises all the government hospitals with the exception of the Philippine General Hospital and other hospitals under its control. It administers the partially self-governing leper colony at Culion. It sees that the schoolhouses and their premises, the prisons, and penal settlements are kept in good sanitary condition. It is empowered to enforce quarantine regulations in time of epidemic or threatened spread of dangerous communicable diseases.

The Director of Health may recommend to local authorities the enactment of ordinances for the prevention of diseases and the sanitary protection and conservation of foodstuffs. He may also, with the approval of the Department Head, suspend or modify orders promulgated by a local board of health or the municipal council. In case of emergency, the Governor-General may invest the Director of Health with powers to make health regulations covering the territory menaced with epidemic. Such regulations need not be passed by the local body for in such case it will go into effect subject to the approval of the Department Head.

The Director of Health is aided by the advice and assistance of the Council of Hygiene. This is a body having seven members appointed by the Governor-General upon the nomination of the Secretary of Public Instruction. The Director of Health need not necessarily accept the advice of this council.

The Philippine Health Service is in charge of the health and sanitation of the city of Manila. Outside Manila the municipal organization unit is either one of the following three kinds: (a) Municipal Board of Health; (b) Municipal Health District; or (c) Municipal Sanitary Division.

A municipal board of health is composed of (a) a president who shall be a registered physician, or *cirujano ministrante*, or an Army surgeon; (b) a member chosen by the municipal council; (c) a school teacher appointed by the division superintendent of schools; (d) the municipal secretary, *ex officio*, and (e) a pharmacist appointed by the municipal president.

A municipal health district may be composed of one or more neighboring municipalities under a president of the district appointed by the Director of Health.

A sanitary division may comprise one or more municipalities, not exceeding four. It is created by a resolution of the provincial board approved by a majority of the municipal councils of the municipalities embraced therein. It is in charge of a president appointed by the Director of Health. The president should be a qualified physician; but when not available, persons with qualifications satisfying the Director of Health may act temporarily as presidents of sanitary divisions. At the close of the year 1920, all regular provinces, with the exception of Romblon, pertaining to the Division of Provincial Sanitation and all the provinces comprised within the Division of Sanitation, Mindanao and Sulu, had been organized into sanitary divisions.

There are practically no more health districts in the provinces. A province generally constitutes a provincial health organization under a district health officer. There were in 1920 forty-eight district health officers, with headquarters at the provincial capitals. The municipal divisions are supervised by about two hundred and thirty presidents of sanitary divisions, most of whom are physicians. The provincial organizations in Mindanao and Sulu are supervised by nine district health officers.

There are besides a board of food inspection in charge of matters pertaining to the enforcement of the food law, a board of examiners for embalmers in charge of conducting examinations for giving certificates as licensed embalmers, a board of examiners for masseurs in charge of conducting examinations for giving certificates as licensed masseurs, and a leper board committee in charge of diagnosing leprosy, its treatment and the discharge of cured patients.

A résumé of the work of the Philippine Health Service is summed up in a recent memorandum of the Director of Health in the following words:

"Public Health Work in the Philippines compares favorably with that of the Oriental Countries. Up to the year 1917, the death rate had been brought down to the minimum figures possible with the

means at hand. The annual death rate for 1901—a year unburdened by extensive epidemics—was 41 per 1,000 inhabitants; five years later—1905—it was brought down to 28 per 1,000. The death rate has thus steadily decreased up to 1918 when it jumped up to 45 per 1,000 in consequence of the pandemic influenza. The year 1913 was specially good, registering but 21 per 1,000. We have made great strides in sanitation during the last 20 years. Yet, there is still quite a long stretch of the up-hill road to national health to be traversed. We are still at the twentieth mile post. Be that as it may, we are certainly better off than most oriental countries. The comparative death rate scale for 1917 shown below is self-explanatory.

Comparative Death Rate Scale for 1917

| Countries | Death Rate per 1,000 inhabitants |
|-------------------------|--|
| <i>Oriental:</i> | |
| China..... | 40.00 |
| India..... | 35.00 |
| Straits Settlement..... | 31.64 |
| Ceylon..... | 27.00 |
| Burma..... | 24.93 |
| Philippines..... | 22.29 |
| <i>Anglo-Saxon:</i> | |
| United States..... | 14.70 |
| England..... | 13.70 |
| Canada..... | 12.70 |
| South Australia..... | 11.73 |
| Queensland..... | 11.00 |
| New Zealand..... | 10.35 |
| <i>Latin:</i> | |
| Porto Rico..... | 28.50 |
| Spain..... | 28.00 |
| Mexico..... | 23.39 |
| Cuba..... | 19.70 |
| Italy..... | 18.20 |
| France..... | 17.70 |

**The Quarantine
Service**

The Quarantine Service is a branch of the United States Public Health Service. It examines incoming and outgoing vessels, and issues bills of health and quarantine certificates. Before a vessel can leave any port in the Philippine Islands for a port in the United States, a bill of health must first be obtained from the proper quarantine officer.

III. THE DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

The Department of Agriculture and Natural Resources, as its name indicates, covers the activities of the government calculated to foster the development of agriculture and the natural resources of the Philippines. It has under its supervision the Bureau of Agriculture, the Bureau of Forestry, the Bureau of Lands, the Bureau of Science, the Weather Bureau, and the various agricultural colonies and settlements of the government.

Functions of the Department of Agriculture and Natural Resources

The functions of the Bureau of Agriculture are to collect and disseminate useful information pertaining to agriculture in the Philippine Islands, to encourage the use of improved agricultural methods, and, in general, to promote the development of the agricultural resources of the Archipelago. The Bureau endeavors to fulfill its purposes:

The Bureau of Agriculture

(a) By the introduction of new domesticated animals, and the improvement of the breeds of domesticated animals now found in the Islands;

(b) By the control and eradication of diseases of live stock;

(c) By the investigation of soil and climatic conditions, and the methods of producing and handling agricultural products;

(d) By the introduction, production, and distribution of improved seeds and plants;

(e) By the control and eradication of diseases, insects, and other pests injurious to cultivated plants;

(f) By the operation of a system of demonstration and agricultural extension work;

(g) By the collection of agricultural statistics; and

(h) By the publication and distribution of bulletins, circulars, and other printed matter.

For the furtherance of these ends the Bureau has established and maintained experiment stations, farms, and stock farms for practical agricultural instruction. Some of these stations are under the joint operation and control of the Bureau and the provinces and municipalities.

The Bureau of Agriculture also has supervision over the agricultural colonies of the government. At present there are four of these agricultural colonies. They are the Bohol Filipino

Rice Colony, the two Cotabato Filipino Agricultural Colonies, and the Momungan American Agricultural Colony.

Another activity of the Bureau of Agriculture is the organization of rural-credit associations for the purpose of lending money to small farmers. The first rural-credit association was inaugurated on October 19, 1916. There were in 1920 over five hundred associations distributed thruout the provinces. Some of these associations have been granted loans by the Philippine National Bank in amounts equal to their paid-in capital. These loans are usually made at 8% per annum, and the associations can, in turn, lend to borrowers at 10%.

In the fight against rinderpest, the Bureau has been experimenting in the immunization of cattle and the use of serum. Another aid to farmers against animal diseases is provided by the insurance of work animals (Act No. 2573, as amended.) Insurance agents are now appointed to insure animals at a nominal sum so that if the animal die their owners may have money to place them.

There is usually an Agricultural Congress held in Manila every year composed of representative farmers from all over the Islands. It is convened for the purpose of discussing matters pertaining to agriculture and of acquainting the government with the needs of the farmers.

The Bureau of Forestry

The Bureau of Forestry is charged with the preservation and administration of the forests of the Philippine Islands. It also supervises the work of lumber mills, by seeing that the owners do not violate the law, and that they live up to the concessions granted them by the government.

Before an application for a homestead, lease, or sale of public lands is decided by the Bureau of Lands, it is submitted to the Bureau of Forestry to see if the land is fit for agricultural purposes or not and to make certain that it is not timber land. The Bureau of Forestry aids in the location of these applications so as to avoid conflicting claims. The agents of the Bureau of Forestry who are scattered all over the Philippines are naturally the men best qualified to locate the different claims to the public domain of the Philippines. The Bureau of Forestry cooperates with the Bureau of Internal Revenue in securing the payment on forest products, and in the enforcement of the internal revenue law

which refers to forests and forest products. The Bureau may establish, with the approval of the Department Head, communal forests for the particular use of the inhabitants of any municipality or municipal district.

The Bureau of Lands is in charge of the administration of laws relative to public agricultural and mineral lands and the friar lands. It also conducts surveys of the public domain, cadastral surveys, and official surveys of private property. The cadastral survey is instituted to settle all claims to the land within a municipality. When the survey is finished, the records are sent to the court for final decision.

One great activity of the Bureau of Lands refers to the granting of homesteads and the leasing and sale of public lands. According to the new Public Land Law, a homesteader may apply for twenty four hectares of public land. One person cannot purchase more than 100 hectares and a corporation cannot purchase over 1024 hectares. For lease purposes a person or corporation can apply for 1024 hectares. The lease usually covers a period of twenty-five years after which time it may be renewed.¹

The Bureau of Science exists to make investigations, conduct researches, and do work of a scientific nature, and to publish the results of such studies.

¹ There have been received in the Bureau of Lands since its organization to December 31, 1920, more than 75,000 homestead applications. Of this number about 20,000 have been cancelled or rejected, while about 2,500 have been patented. The area of the public lands applied for through homestead is about 1,000,000 hectares and of this extent more than 30,000 hectares are now privately owned through the patents issued. During the same length of time more than 5,000 sales applications have been filed, covering an area of approximately 136,000 hectares. More than 2,000 of these applications have been rejected or cancelled while about 900 applications have been patented. These patents cover approximately 15,000 hectares. About 1,900 lease applications have been also received by the Bureau of Lands during this period. Approximately 900 of these applications have been cancelled, while only 117 contracts have been executed. These contracts cover only about 42,000 hectares in spite of the fact that approximately 10,000,000 hectares have been applied for. Almost 24,000 free patent applications which cover about 95,000 hectares have been filed. About 5,300 of these applications have been cancelled or rejected and approximately 8,000 patents have been issued to applicants. These patents cover approximately 24,000 hectares. The Bureau of Lands derives an income of about ₱200,000 on account of homestead fees, sales, installments, interests on the third payments, leases, rentals and other miscellaneous collections.—*From a recent official report of the Bureau of Lands.*

The work of the Bureau of Science may be divided into research and routine. Its research work consists of scientific studies and investigations in chemistry, biology, zoology, anthropology, and mineralogy. It publishes the Journal of Science containing the results of its scientific investigations.

The larger volume of the work of the Bureau consists of the scientific examination of materials of all kinds, submitted by other Bureaus and Departments, such as imported drugs from the Bureau of Customs, human excreta from the Philippine Health Service, and soil samples from the Bureau of Agriculture. The public generally requests information from the Bureau on scientific subjects, and consultations with mining prospectors and operators are held in the bureau. The bureau manufactures serum for the use of the different bureaus and departments, such as the serum for vaccination, rinderpest inoculations, etc. It maintains several collections of natural history, such as insects, birds, snakes, etc. It has also under its jurisdiction the Aquarium in Manila containing live specimens of fishes.

The Weather Bureau The Weather Bureau has long been a scientific institution of international standing. It was founded by the Jesuits in 1865 and began work in conjunction with the Ateneo de Manila. Since its foundation it has been publishing bulletins and other works on seismography, climatology, meteorology, and astronomy; and has taken part in many scientific congresses of the world. It has produced notable scientists, like Father Faura and Father Algue.

The Weather Bureau maintains a system of weather forecasts and storm warnings, which are sent to different ports of the Philippines and the public press. Typhoon signals are hoisted in Manila and the big harbors of the Philippines to warn people of impending storms.

IV. THE DEPARTMENT OF COMMERCE AND COMMUNICATIONS

**Functions of the
Department of
Commerce and
Communications**

All those bureaus of the government which concern the development of commerce and the construction and maintenance of means of communication have been placed under the Department of Commerce and Communications. The Bureaus

under this department are the Bureau of Commerce and Industry, Bureau of Supply, Bureau of Public Works, Bureau of Posts, Bureau of Labor, and Bureau of Coast and Geodetic Survey.

The Bureau of Commerce and Industry has been established for the furtherance of commerce and industry. It compiles data on industrial and commercial information from abroad which is valuable to merchants in the Philippines, and carries on propaganda for the interests of Philippine commerce in foreign countries. At present there are two agencies to foster commerce in the United States, one in New York and another in San Francisco.

**The Bureau of
Commerce and
Industry**

The Bureau of Commerce and Industry registers corporations, trademarks, and patents. It acts as a Mercantile Register for the City of Manila.

The Bureau of Labor has been established for the promotion of better relations between capital and labor. It urges legislation for the moral improvement of the laborers. It compiles data on labor conditions and is empowered to inspect shops, factories, and other industrial and commercial establishments which employ labor.

**The Bureau of
Labor**

Many laborers engaged in a particular occupation organize themselves into labor unions. These unions in turn unite in a labor congress or association. An important work of the Bureau of Labor is then to settle differences between employers and labor unions. The Bureau acts as an arbitrator in questions affecting them, in order to avoid strikes or to settle strikes which have been called by the laborers. Under its auspices committees on conciliation and arbitration are often appointed. The decision of the committee, in order to be binding, must be approved by at least two members of the representatives of each party. The committee can also appoint an arbiter whose decision shall be compulsory on both sides.

The Bureau of Labor is empowered, thru its attorney, to bring suits gratuitously for poor laborers when their attempts at peaceful and amicable settlements prove futile. It also maintains employment agencies where those who need work may apply, and superintends the interprovincial migration of laborers.

The Bureau of Public Works One of the most extensive activities of the government is that carried on by the Bureau of Public Works.

The Bureau of Public Works advises the Governor-General, the Legislature, and the Secretary of Commerce and Communications upon matters pertaining to engineering work of all kinds. It makes investigations, plans, and specifications for the construction or repair of public works and improvements, whether pertaining to the insular, provincial, or municipal government; constructs, repairs and maintains all public buildings, port works, roads, bridges, waterworks, irrigation systems, electric plants, wireless stations, and all other public works requiring engineering skill; apports and appropriates waters and water rights and inspects their use; and exercises supervision over motor vehicle traffic in the Philippines, the registration of automobiles, and the licensing of their operators.

The Philippines are divided into engineering districts, generally coextensive with the territorial limits of the provinces. To each engineering districts, an officer known as the district engineer is assigned by the Director of Public Works. The district engineer has direct general supervision over the construction, maintenance, and repair of provincial public works of the district, and over all contracts connected with such work. He also acts as adviser to the municipalities and municipal districts on all engineering matters.

Lengths of Roads in Existence During Ten Years

| Date | 1st Class | 2nd Class | 3rd Class | Total | Road and Bridge expenditures |
|--------------|-------------------|-------------------|-------------------|-------------------|------------------------------|
| June 30: | <i>kilometers</i> | <i>kilometers</i> | <i>kilometers</i> | <i>kilometers</i> | |
| 1910..... | 1230.2 | 1031.2 | 3337.6 | 5,599.0 | No data |
| 1911..... | 1587.6 | 1069.0 | 2956.7 | 5,613.6 | ₱4,551,733.03 |
| 1912..... | 1839.7 | 2159.9 | 3216.7 | 7,216.3 | 4,546,708.14 |
| 1913..... | 2097.3 | 2034.2 | 3118.1 | 7,249.6 | 5,370,491.57 |
| December 31: | | | | | |
| 1913..... | 2233.8 | 2024.6 | 3138.7 | 7,397.1 | 2,840,453.83 |
| 1914..... | 2564.0 | 2024.3 | 2875.7 | 7,464.0 | 5,652,436.94 |
| 1915..... | 3067.7 | 2082.2 | 3051.7 | 8,201.6 | 5,872,056.81 |
| 1916..... | 3439.6 | 2045.8 | 3440.7 | 8,926.1 | 5,920,606.95 |
| 1917..... | 3738.7 | 2056.6 | 3393.6 | 9,188.9 | 6,148,213.45 |
| 1918..... | 4090.2 | 2015.8 | 2128.7 | 9,234.7 | 7,257,916.70 |
| 1919..... | 4500.3 | 1986.0 | 3109.2 | 9,595.5 | 8,966,001.55 |

The Bureau of Posts has exclusive control over all mail and postal business within the maritime jurisdiction of the Philippine Islands, of all telegraph and telephone lines and service belonging to the Insular government, of the postal money order business, and of the postal savings bank. The Bureau of Posts has established money order and parcel post agreements with the postal administrations of many countries.

**The Bureau of
Posts**

The Bureau of Supply is established to secure furniture, stationery, equipment, and supplies of all kinds required by the various departments and offices of the Insular government, the provincial governments, and the cities of Manila and Baguio. There is a purchasing agent in the United States for the purchase of supplies. For the proper care of the great stock of supplies carried for the general use of the government, concrete warehouses have been erected. The Bureau also manages a cold storage plant which supplies water and ice to government officials and the public.

**The Bureau of
Supply**

The Bureau of Coast and Geodetic Survey is under the United States Coast and Geodetic Survey. It surveys harbors, gulfs, bays, and other water adjacent to the Philippines or pertaining thereto and prepares charts and maps of the Philippine Islands. It determines and locates the geographic positions and marks the meridian lines. It makes tidal observations so as to have a complete record of tidal movements in the Philippines. It compiles all other data needed for pilots sailing in the Philippine Islands.

**The Bureau of
Coast and Geo-
detic Survey**

V AND VI

(The activities under the departments of Finance and Justice have been discussed in the chapters on Finance and the Judiciary, respectively.)

CHAPTER XI

OTHER GOVERNMENTAL OFFICES AND ACTIVITIES

The fifth Act of the Philippine Commission provided for the establishment of a civil service in the Philippine Islands. At first the Civil Service Act included only a part of the government officers and employees, but from time to time it has been extended to all bureaus and offices of the government, to the Insular teaching service, to the provincial governments and to the municipal treasurers.

The fundamental basis of the civil service is to open the doors of government service to persons of merit to be admitted after an open competitive entrance examination. Examinations are given both in English and Spanish, altho lately less than four per cent, have taken the examinations in Spanish. In Manila there is practically no opening for persons qualified in Spanish. In selecting persons from the lists of eligibles, the appointing officers are enjoined to prefer, when other qualifications are equal, first, citizens of the Philippines, and, second, honorably discharged soldiers, sailors, and marines of the United States. This principle is in accordance with the avowed purpose of every administration to appoint Filipinos to positions in the government service as fast as those able and qualified can be found to fill them.

The employees of the government are divided into the classified and unclassified service. The officers and employees who constitute the unclassified service are:

- (1) Appointees of the President of the United States;
- (2) Elected officers;
- (3) Persons, other than provincial treasurers and district health officers, appointed by the Governor-General with the advice and consent of the Philippine Senate;

(4) Officers and employees of the two Houses of the Philippine Legislature;

(5) The Reporter of the Supreme Court, and the Clerk of the Supreme Court.

(6) The Private Secretaries, the heads of executive departments, and the Justices of the Supreme Court.

(7) Members of the commissioned and enlisted service of the Philippine Constabulary;

(8) Detectives and secret agents, sheriffs, and deputy sheriffs;

(9) Persons in the military, naval, or civil service of the United States detailed to the Philippine Government for the performance of civil duties; and

(10) Other minor officials, like postmasters at Army posts whose compensation does not exceed one thousand two hundred pesos per annum, operators and linemen of the Bureau of Posts, postmasters and customs inspectors with compensation not exceeding six hundred pesos and three hundred sixty pesos per annum, respectively, hospital internes, laborers, and other employees whose rate of compensation is two hundred and forty pesos or less per annum.

The officers and employees of corporations created by the Philippine Government, like the Philippine National Bank, the Manila Railroad Company, the National Coal Company, and the University of the Philippines, are also outside the civil service. All other officers and employees are in the classified service.

The Bureau of Civil Service keeps the service records of all officers and employees in the permanent service unclassified as well as classified; it publishes the official roster; and it computes the amount of leave due to each public servant, as well as the amount of gratuities granted to retired officers and employees. The recommendation of the Director of Civil Service is required on proposed removals, reductions, suspensions, and fines.

The Bureau has absolute control of the enforcement of the Civil Service Act, and in this respect it is more powerful than most of the civil service commissions elsewhere. Another distinguishing feature of the Civil Service Act is the provision that vacancies in the positions of chiefs and assistant chiefs of bureaus and offices shall be filled by the promotion of competent persons in the service if there are such persons available. Other civil service acts usually exempt bureau chiefs and other officials, thus shutting off opportunities for advancement to the highest positions of persons in the classified service.

**The University of
the Philippines**

For several decades before the arrival of the Americans, the Filipino people had been agitating the establishment of a government university. As a result of the Spanish revolution of 1868, Minister Moret y Premdergast ordered the consolidation of the higher institutions of learning in Manila into a new university of the Philippines. Upon the coming into power of less liberal men, like other Spanish reforms, the order of Moret failed to materialize. Later, the government of Aguinaldo provided for the establishment of a state university, which was an acknowledgment of the previous popular demand. The life of the Revolutionary University was naturally as brief as that of the Republic.

The Act founding the present University of the Philippines was passed by the Philippine Legislature on June 18, 1908, and in 1909 a Junior College of Liberal Arts was established in connection with the Philippine Normal School.

The University of the Philippines provides advanced instruction and conducts researches in literature, philosophy, the sciences and the arts, and gives professional and technical training. The University is declared non-sectarian and no student can be refused admission by reason of age, sex, nationality, religious belief, or political affiliation.

The government of the University is vested in a Board of Regents composed of the Secretary of Public Instruction, who is *ex officio* chairman of the board, the Secretary of the Interior, the chairman of the Committee on Public Instruction of the Senate, the chairman of the Committee of Public Instruction of the House of Representatives, the Director of Education, the President of the University, one member of the University Council of the University of the Philippines elected by the council, an alumnus of the University of the Philippines elected by the alumni of the University under such rules and regulations as may be promulgated by the Board of Regents, and three additional members who are appointed by the Governor-General, by and with the consent of the Senate. The President of the University is elected by the Board of Regents. The Board of Regents is given ample power to receive and appropriate money set aside by the Philippine Legislature, to receive gifts and donations for the university, to establish colleges in Manila and in other parts of the Islands, to appoint professors, to ap-

prove courses of study recommended by the university council, to provide fellowships and scholarships abroad, to confer honorary degrees and to prescribe regulations and ordinances for the government of the University.

There is a University Council composed of all the faculty members with the rank of professor, associate professor, and assistant professor, which has the power to prescribe courses of study and rules of discipline, subject to the approval of the Board of Regents. There is also a Board of Visitors composed of the Governor-General, the President of the Senate, and the Speaker of the House of Representatives, whose duty is to attend the commencement exercises of the University, to make visits to the University, to examine the property, course of study, discipline, and the state of finances of the University, to inspect all books and accounts of the institution, and to make report to the Philippine Legislature on their findings.

At present there are seven colleges in the University, the College of Medicine and Surgery, and the College of Engineering, the College of Law, the College of Education, the College of Liberal Arts, the College of Agriculture, and the College of Veterinary Science; and six schools, the Schools of Dentistry, Pharmacy, Fine Arts, the Forest School, the Graduate School of Tropical Medicine, and the Conservatory of Music. There is a Junior College of Liberal Arts established in Cebu and another in Vigan as branches of the University. All the colleges and schools are located in Manila with the exception of the Colleges of Agriculture and Veterinary Science and the Forest school, which are in Los Baños, Laguna.

An educational activity of the Philippine Government under the Department of Justice is the Philippine Library and Museum. This is not only a single library but is a system of libraries. It is the purpose of the Government to place branches of the library in all provinces. At present there are four library branches established in the capitals of Ilocos Norte, Iloilo, Cebu, and Zamboanga. In the central library there are over 500,000 volumes.

**The Philippine
Library and
Museum**

An important activity of the Philippine Library and Museum is the Legislative Reference Division, which has been established to help members of the legislature and other officials in the preparation of bills and to furnish them such information on public

affairs as can be found in the 340,000 and more books and publications in the division. The division contains a collection of public documents of the Philippines and the United States. The work of the division covers the investigation of legislation and governmental activities of other countries. Upon the petition of a member of the legislature it can compile and gather information and prepare opinions and memoranda. It also undertakes researches on its own initiation of matters of public importance.

Another important division of the Philippine Library and Museum is the Filipiniana Division, which has the most complete stock of books on the Philippines. Many collections of historical interest have been added to the division; such are the collections of Dr. José Rizal, James LeRoy, José Zulueta, T. H. Pardo de Tavera, Compañía General de Tabacos, and Mariano Ponce.

The Museum Division consists of the historical section, the fine arts section, and ethnographical section. The Archives Division contains the archives of the Spanish Government. By the Treaty of Paris of 1898 the Government of the United States agreed to conserve the public documents which belong to Spain. The Archives Division contains, therefore, the historical documents of three centuries and a half of Spanish administration in the Islands.

The Philippine Militia A Philippine militia was established in 1917 by Act 2715 of the Philippine Legislature. Its initial purpose was to help the United States during the great war.

The militia is divided into two classes: First, the regularly enlisted militia, known as the National Guard; and second, the reserve militia, composed of those who are not in active service. The Governor-General is the Commander-in-Chief of all the militia. There is a Militia Commission established to advise him as to the permanent organization, equipment, and government of the National Guard and the reserve militia. The Militia Commission is composed of the Secretary of the Interior, the President of both Houses of the Philippine Legislature or their representatives, the Secretary of Finance, the Secretary of Justice, and two other members appointed by the Governor-General.

For the purpose of helping in the agricultural, commercial and industrial development of the Philippines, a Philippine National Bank has been organized with fifty one percent of the stock owned by the Government of the Philippine Islands. The voting power of the Government stock is vested in a committee consisting of the Governor-General, the President of the Senate, and the Speaker of the House of Representatives. The Bank is administered by a Board of Directors presided over by the President of the Bank. Branches have been established in New York, in Shanghai, and in many provincial capitals.

**The Philippine
National Bank**

The original capital of the National Bank was twenty million pesos. It has been increased since. The assets have already reached over three hundred million pesos. The Bank is authorized to make loans not to exceed fifty per cent of its capital and surplus and all amounts realized from the sale of real estate bonds. It is also authorized to issue circulating notes, the amount of which shall not exceed the paid-up capital stock and surplus of the bank plus the amount of its gold coin.

The original franchise of what is now the Manila Railroad Company was granted by the Spanish Crown in 1887. The line first ran from Manila to Dagupan alone. On January 8, 1917, the Philippine Government acquired the Manila Railroad.

**The Manila Rail-
road Company**

The Manila Railroad Company is governed by a board of directors composed of ten members and a General Manager. As in other companies owned by the government, the voting power is vested in a committee composed of the Governor-General and the presiding officers of both Houses of the Legislature. The railroad runs on the Island of Luzon. It has at the present time over 1,000 kilometers of rails.

The Philippine Government is perhaps the most paternalistic government under the American flag. It has taken up many activities which are generally left to private individuals. It has followed a policy of nationalizing and controlling industries when public welfare demanded such a step.

**Government De-
velopment Com-
panies**

The greatest development company established by the government is the National Development Company. Its authorized

capital is fifty million pesos. It has been given great powers. It can engage in any commercial, industrial, and agricultural enterprise necessary to the economic development of the country and its public welfare. The stock of the company is controlled, as in other government companies, by a committee of three presided over by the Governor-General.

Other development companies owned by the government are the National Cement Company, the National Iron Company, and the National Coal Company, for the development respectively of cement, iron, and coal.

CHAPTER XII

OUR RELATIONS WITH THE UNITED STATES

After the acquisition of the Philippines by the United States, the legal question was raised as to whether the mere fact of acquisition carried with it the extension in its full force of the Constitution of the United States. In other words, the question was, whether, after the ratification of the Treaty of Paris in 1899, the Philippine Islands became subject to all the provisions of the American Constitution as any other territory or state of the Union.

**The United States
Constitution in
the Philippines**

This point was settled in the so-called Insular Cases. The Supreme Court of the United States decided that the mere fact that the Philippines were acquired by the United States did not mean that the Constitution of the United States was in effect in the Islands. To use a popular phrase, the American Constitution did not follow the flag to the Philippines.

In some cases, however, it has been held by competent authorities that while the American Constitution did not go into effect in the Philippines as a whole, there are some provisions of it which, because of their universal application, must necessarily be in effect in the Philippines. These are the provisions of the American Constitution which specifically provide that they would be in effect everywhere under the American flag. One example of this is the Thirteenth Amendment prohibiting slavery in any place subject to the jurisdiction of the United States.¹

The status of the Philippines is, therefore, different from that of one of the states of the United States, or of an organized, incorporated territory of the United States. In the first place, the constitution of the United States, as we have seen, does not, as a general

**The Status of
the Philippines²**

¹ See Malcolm, Philippine Constitutional Law, Sec. 51

² See Malcolm, Philippine Constitutional Law, Chapter 13

rule, operate in the Philippines. Constitutionally the Philippines are not a part of the United States.

Internationally, however, the Philippines are a part of the United States in the sense that the Filipinos can demand protection abroad and also in the sense that foreign nations necessarily look upon the Philippines as a part of the state called the United States. Other nations cannot deal with the Philippines as a separate entity. As one observer has said, the Government of the Philippine Islands is a government foreign to the United States for domestic purposes, but domestic for foreign purposes. The Filipinos are not American citizens, but are citizens of the Philippine Islands, who owe allegiance to the United States and are under the protection of the United States.

The present status of the Philippine Islands is, however, not expected to be permanent and has been subject to frequent changes since 1898. The Act of Congress of July 1, 1902, called the Philippine Bill, was entitled "An Act *temporarily* to provide for the administration of the affairs of Civil Government in the Philippine Islands, and for other purposes." The Act of Congress of August 29, 1916, commonly known as the Jones Law, was intended to decide the future status of the Philippines. The Act is entitled: "An Act to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands." It is expressly stipulated in the preamble of that Act that the Philippines will be given independence upon the fulfillment of certain conditions. The present status of the Philippines, therefore, is that of a prospective independent nation.

**The Power of
Congress over
the Philippines**

Inasmuch as the American constitution did not follow the flag to the Philippines, the power of the American Congress over the Islands has become well-nigh absolute. The United States Supreme Court has used many words denoting the extent of this power. It has referred to it as a "general", "plenary", "sovereign", "discretionary," and "supreme" power.

Some authorities have argued that there are certain natural rights which are above the constitution and which cannot

be abrogated by Congress. But as Secretary Root has said, it was more a moral right that was a restriction on the Congress. Legally, the American Congress can wipe out the government established here and abolish most, if not all, the constitutional guarantees that we enjoy. Of course, such a thing would not likely be done. The Congress has always shown an anxious regard for the welfare of the Filipino people.

Congress can keep the Philippines in perpetual dependency, convert it into a state of the Union, or declare it free and independent.³

At the present time Congress still withholds from the Filipino people three fundamental rights enjoyed by American citizens. These are (1) trial by jury, (2) the right to keep and bear arms, (3) and the security of dwelling against the quartering of soldiers in time of peace.

**Rights withheld
from the Filipino
people**

The reason for reserving the trial by jury appears to be, as stated by an American Justice of the Supreme Court of the United States, that "the civilized portion of the Islands had a system of jurisprudence founded upon the civil law and the uncivilized parts of the Archipelago were wholly unfitted to exercise the right of trial by jury."⁴ A near equivalent of a trial by jury in the Philippines is the right authorized by law to demand assessors in certain cases in justice of the peace courts and in courts of first instance. The function of the assessors is to aid and advise the judge in finding the facts.

The right to bear arms was originally promulgated in the United States during the early times when it was necessary for ordinary citizens to bear arms for personal protection. Now, however, in the United States, where the constitutional provision exists, the right to bear arms is subject to regulations and restrictions by the state legislatures. The regulations established in the Philippines for the possession of firearms could very well be established in the United States.⁵

³ See Malcolm, Philippine Constitutional Law, Sec. 52.

⁴ Mr. Justice Day in *Dorr v. U. S.*, 195 U. S., 138.

⁵ See Malcolm, Philippine Constitutional Law, sec. 107.

Introduction of
basic American
principles of gov-
ernment

Barring the above three rights, we enjoy all the other constitutional guarantees enjoyed by American citizens. American ideas of government have been introduced in the Philippines, which, together with our constitutional privileges, constitute the greatest and most lasting contribution of America to our governmental system. Justice Malcolm, the authority on Philippine constitutional law, has termed them basic American principles, because of the rôle they have played and will continue to play in our constitutional development. They are not, however, exclusive American principles, for they had long been the battle-cry of the Filipinos in their struggle against Spain. They are found in some of our previous laws, like the Malolos constitution; but they had not had the full play that they have had since American occupation.

A large part of these basic principles of American government are contained in President McKinley's Instructions to the Philippine Commission, as well as in the Bill of Rights of the Philippine Bill of 1902 and in the Jones Law of 1916. Other principles are not found in concrete writings but are derived from the general nature of American governmental institutions. As President McKinley put it in his Instructions to the Second Commission, "there are certain great principles of government which have been made the basis of our governmental system, which we deem essential to the rule of law and the maintenance of individual freedom, and of which they (the Filipinos) have unfortunately been denied the experience possessed by us."

These basic principles of government form the constitutional guarantees of our personal liberty, altho, it must be noted, that they are simply enactments by the American Congress which, in the very nature of things, can be withdrawn at any time. The Philippine Bill of Rights constitutes section 3 of the Jones Law. Having been taken almost word for word from the American Bill of Rights, it has necessarily brought to the Islands the interpretations of the American courts.

A few of the basic
principles *

A few of those basic American principles of government which are not found in any concrete provisions of the bill of rights, but which have

* See Malcolm, Philippine Constitutional Law, secs. 82-84.

been introduced in the Philippines may be mentioned. One of them is Lincoln's famous battle-cry of a "government of the people, for the people, and by the people." This beautiful concept is learned by every Filipino child.

School children are taught that government by the people does not mean the spontaneous act of the people, the angry action of a mob, but the action of the people thru legal channels, thru channels that they themselves or their representatives have established. "When a part of the people or even a majority of them act outside the forms of law they have no power except the power of force to bind those who do not join in the movement".⁷

In a democracy there is no justification for a people to act outside the law; there is no place for a bloody revolution. The most radical changes in the government can be effected and should be effected thru legal means. In no place is this more apparent than in the United States of America. If by revolution is meant a radical change in the government or in the fundamental law of the land, then there is a revolution in the United States every four or five years for hardly that time passes before the people of some state thru a constitutional convention revise or amend the constitutional law of the land. If the law provides a legal means for changing the form of government or the constitutional law, no other means are permissible.

Another unwritten law of popular government extended to the Philippines is faith in the rule of the majority. Many of our laws carry out this principle. It is the basis of most elections. In fact, in our election laws plurality of votes is sufficient to elect a candidate. The majority of votes in the legislature is sufficient to pass a law. Likewise resolutions in the provincial board and in the municipal councils require a majority vote for passage.

This, however, is not interpreted to mean that the minority has no rights and should in every case be subject to the dictates of the majority. In the first place, the minority has the right to be heard. The minority members of a deliberative body, whether it be a legislature, a provincial board, or a municipal council, have the right to express their views and to have them

⁷ Hoar, Constitutional Convention, pp. 21, 22.

recorded in the minutes. The majority is not always right; hence many laws also provide for checks, either temporary or permanent, on the wishes of the majority. Thus, while a majority of an American state legislature can pass a bill, that bill can be vetoed by the governor, and can be passed over his veto only upon a two-thirds vote of the legislature.

When the law provides that the majority opinion on a certain subject shall prevail, it is the duty of the minority gracefully to submit to the wishes of the majority.

One great principle of American government which is often invoked by our courts is that a government must be a government of laws and not of men. Laws must be obeyed by all, and everybody who violates them must suffer the consequences. From the humblest laborer to the most powerful man and from the lowest employee to the official occupying the most exalted position, the laws must be equally applied and must have the same majesty and power.

Another American maxim of great value to the Philippines is that a government office is a public trust. "Public offices are created for the purpose of effecting the ends for which government has been instituted, which are the common good, and not the profit, honor, or private interest of any one man, family, or class of men".⁸ This principle is incorporated in many of our laws. Thus our municipal laws prohibit municipal officers from being directly or indirectly interested in any municipal contract or other municipal business, or in the purchase of any real estate or property belonging to the municipality.

More American ideals and principles of government introduced in the Islands can be cited and their importance explained, but the above might be sufficient as examples. Their propagation among our citizens forms our most lasting relationship with America. Their perpetuation will be the greatest monument to America's generous purposes and ambitions.

Our resident
commissioners

When Governor Taft went to Washington in 1902 to inform Congress of conditions in the Philippines, he advocated the sending of Philippine delegates to represent the Philippines at Washington. As a result of his

⁸ Brown v. Russel, 166 Mass. 14.

appeal, the Philippine Bill of 1902 provided for two resident commissioners. The old Commission and Assembly would each elect one commissioner and submit his name to the other house for ratification. There was no election unless the action of one house was ratified by the other. The first resident commissioners, Pablo Ocampo and Benito Legarda, arrived in Washington in 1907 and were accorded seats and all the other privileges of a house member except votes, by the House of Representatives.

Resident commissioners receive the salary of members of the House of Representatives, the same clerk hire and stationery privileges, but their mileage, or traveling expenses, have been fixed at a definite sum. They can speak but they cannot vote. Permission to speak is not limited to Philippine matters; but naturally prudence would dictate that the Philippine resident commissioners should participate in the deliberations of the House only in case Philippine questions are up for discussion. The work of the early resident commissioners was on the whole congressional. They are by law officially recognized by the executive department of the American Government, so they have an opportunity to do some administrative work. The most important function of the Resident Commissioners has been to act as the official spokesmen of Filipino aspirations before the Congress and the people of the United States.

The Bureau of Insular Affairs is the bureau of the War Department of the United States thru which the Secretary of War supervises the administration of the Philippines. All administrative orders from Washington, with the possible exception of those from the Secretary of the Treasury in supervising the Bureau of Quarantine Service and the Coast and Geodetic Survey, come thru the Bureau of Insular Affairs.

The Bureau of Insular Affairs is under a chief appointed by the President for a term of four years, who while holding office has the rank and pay of a brigadier-general. He has two assistants with the ranks of colonel and major. The Bureau of Insular Affairs furnishes the President, the Secretary of War, Congress, and also the public, with information about the Philippines and Porto Rico. It supervises the financial operations of the Philippine Government (also that of Porto Rico) such as the floating of

bond issues, the guarding of deposits in the United States, and the purchasing of supplies which are required by the Government. The Bureau, upon the recommendation of the Governor-General or the bureau of the Philippines primarily concerned, selects Americans for service in the Philippines.

Insofar as the Bureau of Insular Affairs and the War Department have anything to do with policies, the aim "has been to foster autonomous governments in the Islands subject to its jurisdiction, to avoid interference with the governments there established, and to protect such governments insofar as possible from interference by other departments and branches of our government."

**Other Philippine
Agencies in the
United States**

Other Philippine agencies to look after Philippine interests in the United States are maintained. Commercial agencies are established in New York and San Francisco for the purpose of fostering Philippine trade in the United States and disseminating trade information to American business men. The purchasing agent in New York acts as an agent of the Bureau of Supply in the Philippines for the purpose of purchasing materials for government use. The Philippine National Bank has a branch in New York City which does banking work. The Philippine Press Bureau of the Commission of Independence endeavors to acquaint the American public with the political conditions in the Philippines, with a view toward bringing about early independence. Commissioners of labor are often sent to Hawaii to investigate labor conditions there. There is also an educational agent who looks after the government *pensionados* and selects teachers for Philippine service.

**The Philippine
Naturalization
Law**

The Philippine Legislature has been authorized by Congress to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who are not yet Filipino citizens, the natives of other Insular possessions of the United States, and such other persons residing in the Philippine Islands who could become citizens of the United States, if residing therein. "Altho.

* Memorandum, War Department, Mar. 4, 1914.

perennially agitated in official circles, it was not until the legislative session of 1920 that the Philippine Legislature passed the necessary legislation.

"Act No. 2927 constitutes the new Naturalization Law of the Philippines. Philippine citizenship may now be acquired by three classes of persons: (a) Natives of the Philippines who are not citizens thereof; (b) Natives of the other Insular possessions of the United States; and (c) Citizens of the United States, or foreigners who under the laws of the United States may become citizens of the latter country if residing therein. The qualifications and disqualifications for citizenship are enumerated. The following can, under no circumstances, be naturalized as Philippine citizens: (a) Persons opposed to organized government or affiliated with any association or group of persons who uphold and teach doctrines opposing all organized government; (b) persons defending or teaching the necessity or propriety of violence, personal assault, or assassination for the success and predominance of their ideas; (c) polygamists or believers in the practice of polygamy; (d) persons convicted of crimes involving moral turpitude; (e) persons suffering from mental alienation or incurable contagious diseases; (f) citizens or subjects of nations with whom the United States and the Philippines are at war, during the period of such war. The only qualification for a native of the Philippines to be able to acquire Philippine citizenship is that he must not be less than twenty-one years of age. The other persons who are permitted to become Philippine citizens must, in addition to the age qualification, have the following additional qualifications: (1) Residence in the Philippine Islands for a continuous period of not less than five years; (2) Irreproachable conduct during this period; (3) Be the holder in the Philippine Islands of real estate worth not less than one thousand pesos (\$500), or have some trade or profession, and (4) Be able to speak and write English, Spanish, or some native tongue. More liberal provisions are provided for certain classes.

Courts of First Instance are given original jurisdiction, and the Supreme Court of the Philippine Islands appellate jurisdiction, to hear petitions for naturalization."¹⁰

¹⁰ Malcolm, Philippine Constitutional Law, pp. 393, 394.

The United States Army and Navy in the Philippines

In 1901 when William H. Taft was Civil Governor, there were about 20,000 United States soldiers scattered thruout the Islands.

As the country became pacified, the number was gradually reduced. In normal times there are less than 6,000 American troops in the Philippines and about 10,000 native scouts who are also under the Federal Government.

Officers of the Army, upon request by the Governor-General, may be detailed to the civil government for service. This practice was resorted to during the training period of officers of the National Guard. The Commanding General of the Army is independent of the civil administration and has complete authority over the military troops. But the Governor-General and the Military Commander cooperate in their work. Fortifications at Corregidor have been built by the United States for the protection of the Islands. The United States maintains a naval station at Cavite and keeps a small fleet of war vessels in Philippine waters.

CHAPTER XIII

TENDENCIES IN OUR CONSTITUTIONAL DEVELOPMENT

Gradual and cautious changes have characterized the recent constitutional development of the Philippines. No radical departure has been entered into, no beautiful and alluring ideas of government have been experimented upon. Of course it can be argued that we have not been entirely free to advocate and work upon whatever theories of government we may have, for we have had always to follow the organic laws passed by Congress. It may be said that we have simply carried out the American program for the Philippines, which is that of self-government step by step. The two decades of American government have been a regular stairway of successive steps towards an ever greater autonomy and wider opportunities.¹ Each step has guided America to the next.

The Filipino people may have learned from such sources the Anglo-Saxon principle that forms of government should not be changed as one would a suit of clothes; for judging from their recent constitutional development they did seem to have imbibed such a principle. The fact, however, is that even within the powers granted them in the Jones Law more radical changes could have been made. Perhaps the most radical departure from the American practice is the establishment of the principle of cabinet responsibility to the legislature. In this connection it should be stated that the Philippines has been more accustomed to the theory of cabinet responsibility, or personal union of legislative and executive functions, than to the other theory. The Spanish Governor-General was in a sense the law-giver for the Philippines,

No great institutional changes made

¹ See page 3

for while laws at that time came from Spain, he was empowered, with the advice of the "Consejo de Administración", to make the necessary rules and regulations. The government of the Philippine Republic was a full-fledged cabinet system. The Philippine Commission, which governed the Philippines from 1901 to 1916, was composed in its majority of members holding both executive and legislative positions. Legislation in the popular mind has never been completely divorced from administration. The provision, therefore, for practical cabinet responsibility is not a departure from the trodden path. In fact, we have not gone as far towards greater cabinet responsibility as we have in the past. The main reason why cabinet responsibility has been advocated is because it is the best way to effect a greater Philippine autonomy. The principle of the presidential system—of sole cabinet responsibility to the Governor-General and not to the legislature—would have meant much greater and more direct exercise of governmental powers by the Governor-General.

**Present system a
compromise**

Our present system may be said to be a compromise between the presidential and the cabinet systems. The present members of our cabinet are not members of the legislature. They are not responsible to the legislature in the sense that the English cabinet is responsible. They do not resign in case of a vote of lack of confidence; at the same time they are supposed to have the confidence of the legislature for they are appointed at the beginning of every legislature. In this respect, we are approaching the Swiss system. We are supposed to appoint capable men for the post of secretaries of departments from the triumphant party in the legislature, but they are not necessarily members of the legislature. We apparently want capable executives to head the different departments, but we do not give these executive heads the freedom to decide upon broad executive policies, for we have abolished the cabinet as a body; or rather we have enlarged it with the inclusion of the recognized leaders of the legislature and called it the council of state. While the departmental secretaries form the majority of the Council of State they know that they do not control its policies. They must necessarily follow the leadership of the legislative members of the council.

A great deal of the old system in vogue before the Jones Law has been continued. The presiding officers of the legislature are still the political leaders. The numerous committees in the legislature have been preserved, altho they may have suffered in loss of powers chiefly because the actual preparation of the bills has been largely done by the executive departments. Another reason is that the budget system has taken away a great deal of the prerogatives of the old committee on appropriations.

Another innovation established is the budget system, but that has been warranted by circumstances. The Council of State is, as we have seen, not much of an innovation for it is simply the recognition of the existence of representative officials in the government. It is simply the cabinet enlarged. We have mentioned that there has always been some sort of a council of state for the Philippines. But even in this case, the change has been made cautiously and by way of experiment. It was ushered in as an executive measure and has not yet received formal legislative sanction, except thru laws giving it definite powers.

The development of the Governor-General into a more or less solemn and ceremonial figure is simply the result of the autonomy granted in the Jones Law. He personifies not only the sovereignty of America but also the legal personality of the Philippine government. All executive functions of government are still done in his name. Under him are lodged the Bureaus of Audits and Civil Service, the one to see that all expenditures are done in accordance with law and the other to see that the rules of merit and ability are adhered to in all the bureaus of the government. He has ceased to be the main policy-determining factor of the government; that work is now done mostly by the Council of State and the Legislature.

Now, what are the immediate changes that may be made? The present system is by no means permanent. We are in a transition period in many respects. Our final political status is not yet definitely settled; and, judging from our present political institutions, we have not yet found any definite system of government even for our present temporary political status. We have discussed the attempt to solve the problem of responsible leadership, of unity of responsibility, and the steps which have been made towards that goal. We have

Possible changes

been optimistic at times, believing that with these steps the problem has been solved. We have learned of the attempt to place leadership outside the presiding officers of the legislature, in the Secretaryship of the Interior, when this position was offered to Speaker Osmeña. We have seen why Speaker Osmeña refused the offer and how the idea of a council of state was then born. It would seem that this was the place for proper leadership. The Council of State is allowed to elect a vice-president who should be, in the very nature of things, considered the highest official in the government. He somewhat corresponds to the premiers of England and of the English self-governing colonies.

The growth of the premiership in England and popular leadership in the government of the Philippines affords striking similarities. It is born, in both countries, of the fact that a great deal of the legal governmental power rests in the hands of officials not elected by the people—the King in England and the Governor-General in the Philippines. As the demand for popular government increased, these officials have been obliged, extra-legally at first, to recognize the leadership of some one man or group of men who has been raised by the people in the legislature or parliament. It is only very recently that the office of prime minister has been mentioned in the statute books of England. Gladstone described the premiership in the following words:

"Departmentally, the Prime Minister is no more than the first named of five persons, by whom jointly the powers of the local treasuryship are taken to be exercised. He is not their master, or otherwise than by mere priority their head, and he has no special function or prerogative under the formal constitution of the office. He has no official rank except that of privy councillor. Eight members of the Cabinet, including five secretaries of state and several other members of the Government, take official precedence of him. His rights and claims as head of the Administration are nowhere recorded. He is almost if not altogether unknown to the statute Law."¹

Senatorial leadership

The growth of the Speaker's power has been, as we have seen,² along somewhat similar lines. The Vice-Presidency of the Council of State has been created to continue such leadership. There have, however, been some

¹ Quoted in the *Cyclopedia of American Government* by Edward Porrit, Vol. III, page 57.

² See page 26

obstacles to his leadership. There are people who claim that the place of leadership in the government is the Senate and not in any other official or organ of the government. The real leader should be the President of the Senate, they said. The basis for this contention is that the Senate has many advantages over any other department of the government, for it is clothed legally with greater powers. It has co-equal legislative power with the Lower House; for altho the current practice allows the Lower House to initiate and take up the appropriations first, the Senate is also free to amend or modify them so that the apparent advantages of the Lower House are not very great. On the other hand, the appointments by the Governor-General of all important officials, except the appointive senators and representatives, must be made with the consent of the Philippine Senate. This provision gives that body certain legal prerogatives not enjoyed by the Lower House. In fact, this is interpreted by some to mean that the Senate should be consulted informally even before the appointments are sent to it for confirmation by the Governor-General. The supporters of the Lower House may, however, say, in return, that it is nearer the people than the Senate, for altho both the Senators and Representatives are elected by the qualified voters, the Senate never changes its entire membership at any one election; it elects one-half of its elective membership every three years. The Lower House is in that way the more faithful barometer of the people's desire. It changes its entire elective membership at every election. Should the people decide to place another party in control of the Lower House, the defeated party may still continue in control of the Senate. For instance, if during the elections of 1919 the opposition party had won a majority of seats in the Lower House and nine of the eleven senators elected at that time for the Upper House, the triumphant party would still have a minority in the Senate. In such case, should we allow the leadership to be exercised by the Senate? Would it be popular and democratic?

Ours must necessarily be a government by the Legislature, more so than any other government under the American flag, for we do not as yet elect any executive; but it should be immaterial where the recognized leader is found. He can be either in the Senate or

English party
system theory
followed

in the House. He need not necessarily be in the "stronger" house. The Prime Minister of England has not always been taken from the House of Commons. He might be a member of the House of Lords, altho the Lower House is much more powerful than the Upper House. There is no comparison between powers of the two Houses in England and those in the Philippines. But even in England where the Upper House is so much weaker than the the Lower House, Prime Ministers have been chosen from members of the Upper House. Since the reform of 1832 there have been six Premiers from the Upper House, Grey, Derby, Russell, Baconsfield, Salisbury and Rosebery. The leadership of these prime ministers was naturally recognized by the majority members of the Lower House.

The greatest asset of the English premier is his leadership of the party that has triumphed at the last election. This is what makes him premier. England has united in one hand party leadership and popular leadership in the government. The Philippine Government under the rule of the Nacionalista Party has had a similar arrangement. The Speaker of the House of Representatives had always been also the President of the Nacionalista Party. At present the Vice-President of the Council of State—the leader *de facto* of the council—is the president of the Nacionalista Party. In this respect we have again deviated from the American practice and followed the English theory.

"Unlike an English party", said Professor Ford in his *Rise and Growth of American Politics*, "the American party cannot itself formulate measures, direct the course of legislation, and assume the direct responsibility of administration. All that it can do is to certify the political complexion of candidates, leaving it to be inferred that their common purpose will effect such unity of action as will control legislation and direct administration in accordance with party professions. The peculiarities of American party government are all due to this separation of party management from direct and immediate responsibility for the administration of government. Party organization is compelled to act through executive and legislative deputies, who, while always far from disavowing their party obligations, are quite free to use their own discretion as to the way in which they shall interpret and fulfill the party pledges. Mean-

while they are shielded, by the constitutional partitions of privilege and distributions of authority, from any direct and specific responsibility for delay or failure in coming to an agreement for the accomplishment of party purposes. Authority being divided, responsibility is uncertain and confused, and the accountability of the government to the people is not at all definite or precise. When a party meets with disaster at the polls, every one may form its own opinion as to the cause. It is purely a matter of speculation. The situation of affairs is one which was accurately foretold in *The Federalist*".

"It is often impossible," said Hamilton, "amidst mutual accusations, to determine on whom the blame or the punishment of a pernicious measure, or series of pernicious measures, ought really to fall. It is sifted from one to another with so much dexterity, and under such plausible appearances, that the public opinion is left in suspense about the real author. The circumstances which may have led to any national miscarriage or misfortune are sometimes so complicated that where there are a number of actors who may have had different degrees and kinds of agency, though we may clearly see upon the whole that there has been mismanagement, yet it may be impracticable to pronounce to whose account the evil which may have been incurred is truly chargeable."

The Council of State has been our one great promise for responsible leadership. As a body, however, it has not materially developed legislative leadership. It has not yet been given power formally to introduce measures in the legislature (with the exception of the budget). The fact that it still remains technically a creation of the Governor-General does not encourage the legislature to give it open initiative in legislation, specially when there are only two members of the legislature in it.

Responsible government. ✓

There are several immediate possibilities for the Council of State. It may be ratified by law to give it greater strength and legislative confidence. It may be enlarged to include other legislative members; or the cabinet, which constitutes the greater part of its membership, may be entirely changed (with the exception of the Secretary of Public Instruction) so as to have it filled only by members of the legislature. In that case its

membership, with the exception of the Governor-General and the Vice-Governor, would be totally changed. An almost complete system of responsible government would be then established. The main difference with the English system would be the lack of provision for dissolution of the legislature. The Jones Law provides only for triennial elections. We do not know but that difference would be for the benefit of the Philippines. We may doubt whether the country is ready for a completely responsible system whereby the legislature may at any time be dissolved whenever it is at odds with the cabinet or Council of State. For the present it may be sufficient to continue allowing the people a periodic expression of opinion at every election of the legislature. If the Council of State elected and controlled by the majority of the legislature should lose the confidence of that majority, then the case may be submitted to the people at the regular election. That certainly would be a much more popular system than the present. All the principal executive posts would be filled by officials chosen by the people at a regular election. The Council of State could be then a real place for leadership.

A Filipino Vice-Governor.

Another change which may be immediately effected in the central government is the appointment of a Filipino Vice-Governor. Heretofore the Vice-Governorship has been considered of a lower official rank than the Speaker. This concession dates back to the time when the then Secretary of War Taft declared that the Governor-General would be followed in rank by the Speaker of the Assembly. Should it be decided to filipinize the Vice-governorship, however, the Filipino leader *de facto* might be given the place, and consequently he may be allowed to take precedence over the other officials below the Governor-General. The appointment can be made every three years at the beginning of a new legislature. Following somewhat the practice in a self-governing English colony, the Governor-General may select the leader of the triumphant party in the legislature for the place. He can then send his name to the President for appointment as Vice-Governor of the Philippines.

Will there be a backward step?

The foregoing are mere possibilities. They may or may not happen. They may or may not be strongly advocated. People can be found

who will see nothing wrong with our present government. They will say that whatever faults there may be found in our government is not the fault of the system but of the men who try to run the system; that under the present circumstances the best and most logical form of government will not work well if the men in office are not honest and public-spirited.

On the purely personal side of our government, on the individual characteristics of our officials, we have not passed. That question is outside the purpose of the present volume. Yet it is not true that a good government depends only upon whether we have good or bad men in it. How many times have seen the very best of men fail when placed in organizations or governments based on faulty and inefficient systems!

We have discussed the possibilities on the supposition that there will not likely be any backward step in our constitutional development. But this is not the same as saying that America cannot, or does not have power to, set the clock of autonomy backwards. We have stated time and again that the power of the United States over the Philippines is well-nigh absolute, that the American people can do everything it pleases with the Filipino people. Nevertheless, questions of policy and considerations of justice for the Filipino people are practical limitations to the arbitrary exercise of the absolute powers retained by the American nation. We may point to the English self-governing colonies as an example of how a mother country, while still clothed with supreme powers, will not for a moment dare use those powers unless the paramount interests of the empire demand it. In all matters of domestic concern, the native or elective officials of these colonial governments are always given a free hand, although the Metropolis or its representative in the colony, the Governor-General, can legally, if he so desires, assume direct control of governmental affairs.

A similar arrangement should continue to exist in the Philippines. In fact we have often stated that the autonomy granted to the Philippines under the Jones Law is on the same principle as that granted to the self-governing colonies of England: on matters in which the supreme interests of the metropolis are concerned the mother government should act; but in all other questions of purely domestic autonomy, the local government should be left alone.

**The Wood-Forbes
Commission**

At this writing (March, 1921) a Commission has just been appointed by President Harding composed of General Leonard Wood and former Governor-General Forbes, to make a survey of the entire Philippine situation. In connection with this trip a lot of predictions and conjectures have been made. Some even contend that this committee will dismiss every official found corrupt or inefficient, will place Americans in bureaus in which Filipinos have failed, and will recommend to Congress the abolishment of such institutions as the Philippine Senate. In other words, the autonomy granted by the Jones Law will be totally altered and the principle of self-government violated.

We doubt very much whether the American government is ready to take such steps. As an American Senator expressed it, self-government also may mean at times self-misgovernment; and we would not have even the shadow of self-government if for every little mistake that we commit, the mother country will at once step in and take away powers already granted us. Suppose the Wood-Forbes Commission should discover some bureaus filled by corrupt officials, a few roads in poor condition, extravagance and corruptions in certain quarters—should they at once take drastic actions, and, if so instructed, dismiss the guilty officials and put Americans in their stead?

That would be a grievous injustice to the Filipino people. Investigations are welcome, surveys are needed to find out the weak and strong spots in our body politic, and suggestions will be appreciated; but the Filipinos themselves should be allowed to correct their own mistakes. The preamble of the Jones Law states that the largest amount of autonomy should be established in the Philippines which is not incompatible with the exercise of the rights of American sovereignty. Corruption in certain quarters, inefficiency in some bureaus, bad roads in other localities, will not necessarily impair such exercise. Following the spirit of the Jones Law a clear demarcation line should be made between matters which would require American intervention thru the Governor-General, the President or Congress and matters which should be left to the control of the Filipino people.

If the rights of American residents are threatened, if life and property are not safe, if mobs and revolutions break out, if the

international relationship of the Philippines is being jeopardized because of misguided action by the Filipino people, then it would be up to the United States government to intervene, for the United States is still the party responsible to the world for the proper conduct of the Philippine government; but as a matter of policy, in obedience to the spirit of the Jones Law, mere local irregularities and corruptions should be left to the people themselves to change and correct.

It is absolutely necessary that this clear demarcation be reaffirmed. The people must be made to feel the responsibility for the mistakes and failures in their government. Our autonomy would be a mere illusion if it does not carry with it the right to correct our own mistakes. Self-criticism is the essence of popular self-government.

Such are the immediate changes that may be made.

What institutional changes will follow independence.

(Now, what changes may there be after independence? What system of government will likely be followed?

Nobody can answer these questions. It is impossible to foretell what the Filipino people will do once they are given absolute control of their government. There is, however, no need of radical changes in the organization of the government so that it might function as an independent organization. As Secretary of War Baker has declared, there is now only the tenuous connection of the Governor-General between American sovereignty and independence. We have only to elect a President and Vice-President in lieu of the Governor-General and Vice-Governor in order to be a full-fledged Republic. We have the other organs of government in running order—our municipalities, provinces, executive departments, Council of State, Judiciary, and Legislature. The rôle of the Governor-General could very well be filled by a President who would be more powerful than a French President but less of a political figure than the American president. He would symbolize the legal personality of the Republic, but must always take the advice of his cabinet or council of state in matters of policy.

There will undoubtedly be called a constitutional convention to adopt the fundamental law of the Republic; but in all probability few changes will be made in our present governmental machinery.

Anglo-saxon political philosophy

Only those that have proven inefficient and inimical to the public welfare should be discarded. At least, that is the lesson that America's experiment in the Philippines as well as her own experiences at home have taught us. We cannot easily forget the fundamental principle of Anglo-Saxon political philosophy that novelty and originality for their own sake must not characterize any constitution-making.

"Constitutions grow, they are not made," said an English writer, Sir Henry McIntosh. The main purpose of constitutions, written or unwritten, is not the creation of new governmental forms and the promulgation of novel political ideas but rather the safeguarding of present practices, the ratification in a solemn manner of political ideas already imbedded in the minds of the people, so that those who are called upon to rule may find in them an impregnable barrier to lusty ambitions of tyranny and oppression. The governmental forms that are established in a new constitution are usually only those which will tend to safeguard the interest and ultimate will of the people.

The constitution which have proved to be a success are those which have adhered more to this principle of gradual evolution, establishing only such forms and guaranties as are already accepted by and known to the people. It is true that constitutions of the other kind have been promulgated—literary and philosophic masterpieces, glimmering with revolutionary ideas, produced like a meteor arising in the midst of blood-stain battles—but such constitutions (Sir Henry Maine calls them *a priori* constitutions) are usually short-lived.

The best examples of *a priori* constitutions were the French constitutions of the past. "France to-day is governed under her eleventh constitution since the fall of the Bastille. All but one of the eleven have been actually in operation, during a longer or a shorter period. But, prior to the fundamental law at present in effect, no one of these instruments attained its twentieth year. Once having cut loose from her ancient moorings, the nation became through many decades the plaything of every current that swept the political sea. It is only within our own generation that she appears definitely to have righted herself for a prolonged and steady voyage."⁴

⁴ Ogg, The Governments of Europe, page 289

In contrast with the French type of constitutions, the *a priori* kind, stands the so-called historical constitutions, or those which, although in some cases formulated in written law, are the product of historic evolution, of gradual changes, rather than of transient moods and fads. Such constitutions may have been written and promulgated at a definite time, but they generally set no ultra-radical views foreign to the minds of the people, they are reluctant to change the forms of government unless such changes are clearly demanded by the people and the circumstances. The motto of "Let well enough alone" seems to be the principle applied in the formation of this kind of constitutions. Historical constitutions may not have the rhetorical finish and logical form of *a priori* constitutions and may not be noted for political inventiveness but they are more lasting and stable because intrenched not only in the minds of the makers but also in the hearts of the people. Their superiority over the *a priori* constitutions has been accepted by well-known students of law and government. Says Sir Henry Maine: "I will not undertake to hold the balance of success or failure among the 350 Constitutions which a modern writer, Lieber, declares to have come into existence since the beginning of this century; but if we take our standing ground at the end of the century preceding, when *a priori* Constitutions first appeared, we find it certain that among all historical Constitutions there have been no failures so great and terrible as those of Constitutions of the other class. There have been oppressive Constitutions of the historical type; there have been Constitutions which mischievously obstructed the path of improvement; but with these there has been nothing like the disastrous course and end of the three Constitutions which announce their character by beginning with a Declaration of the Rights of Man, the French Semi-monarchical Constitution of 1791, the French Republican Constitution of 1793, and the French Republican-Directorial Constitution of 1795. Nor has any historical Constitution had the ludicrous fate of the Constitution of December 1799, which came from the hands of Siéyes a marvel of balanced powers, and became by a single transposition the charter of a pure despotism."⁵

⁵ Popular Government, pages 174, 175.

The extreme example of an historical constitution is England. Her constitution is so historical, so evolved, that she never has taken the trouble of writing it down in a definite form, out of reach of her Parliament. Her own political revolutions were carried in a most conservative way, asserting no new political rights but simply vindicating time-honored practices. The Great Magna Charta is not an assertion of new principles but a demand for the continuation of the ancient practices. She put to death hateful kings and welcomed new ones, but this has been done because those kings violated their compacts with the people.

The other examples of historical constitutions, although in written form, are the constitutions, both state and federal, of the United States. The independence of the Thirteen American Colonies of England in 1776 did not mean the establishment of brand-new political institutions in the new world. "The Revolution did not make a breach in the continuity of their institutional life. It was not a social cataclysm, the overthrow of a dominant class, the establishment of a new estate in power. It was rather an expansion of the energy of the ruling agricultural and commercial classes, that burst asunder the bonds with which the competing interests in England sought to restrain their growing enterprise. It was discontent with economic restrictions, not with their fundamental political institutions, which nerved the Revolutionists to the great task of driving out King George's governors, councillors, judges, revenue-officers, and soldiers. The American Revolution, therefore, was not the destruction of an old régime, although it made the way for institutional results which its authors did not contemplate; and it was not motivated by the levelling doctrines with which the French middle class undermined the bulwarks of feudalism.

"There had long been executive, legislative, and judicial officers in all of the colonies, and the Revolutionists merely took possession of them. Unlike the French popular party, they did not have to exercise their political ingenuity in creating any fundamentally new institutions. The Revolutionists of Rhode Island and Connecticut, where the governors, councillors, and judges were not appointed by the crown, found their ancient systems of government, based on seventeenth-century charters, so

well suited to their needs and ideals that they made no alterations beyond casting off their allegiance to the King of Great Britain"⁶

We may close with the words of Prof. Ordronaux: "Republics are not made by merely promulgating a charter. They must be born from the spirit, from the intelligence, and from the moral culture of the nation. Without these concomitant elements, they cannot last."⁷

⁶ Beard, American Government and Politics, page 1.

⁷ Constitutional Legislation, page 50.

CHAPTER XIV

THE INDEPENDENCE MOVEMENT

Independence aspirations

After the armed opposition to the United States was put down the Filipino people began a peaceful campaign for independence. At first this movement was not an organized one, because in the early years of American occupation a law had been passed by the Philippine Commission which practically prohibited all agitation for independence. The only political party which could very well exist under these conditions was the Federal party, which advocated statehood and permanent annexation to the United States. This party, however, soon saw the unpopularity of its stand, for it could not find supporters either in the Philippines or in the United States, and so as soon as conditions permitted the advocacy of separation, it left out the statehood plan and advocated independence after a period of preparation. In the meanwhile a strong independence party had been formed called the Nacionalista Party, and at the first national election to the Philippine Assembly in 1907 this party won popular favor.

If there was any doubt as to the attitude of the Filipino people on independence, this was dispelled by the action of the Philippine Assembly, the first national representative body to be convoked following American occupation. At the end of the first session this representative body unanimously ratified the closing address of Speaker Osmeña on the question of independence. The Speaker, in part, had said:

"Permit me, gentlemen of the Chamber, to declare solemnly before God and before the world, upon my conscience as a deputy and representative of my compatriots, and under my responsibility as President of this Chamber, that we believe the people desire independence, and that we believe ourselves capable of leading an orderly existence, efficient both in internal and external affairs, as a member of the free and civilized nations."

By virtue of the Philippine Bill passed by Congress in 1902, the Philippine Assembly was allowed to send a representative to Washington to voice the aspirations of the Filipino people. In 1907 the Hon. Pablo Ocampo was sent to Washington as Resident Commissioner, who, in pursuance of the mandate of the Assembly, advocated the independence of the Philippines. His successors, especially the Hon. Manuel L. Quezon, who was Resident Commissioner from 1909 to 1916, continued with vigor the campaign for independence in the United States.

The policy of the United States towards the Philippines has always been interpreted by American statesmen to mean ultimate independence. The uncertainty has been only as to the time for such independence.

Early American policy towards the Philippines¹

(In President McKinley's Instructions to the first Philippine Commission, on the 20th of January, 1899, he expressed the hope that the commissioners would be received as bearers of "the richest blessings of a liberating rather than a conquering nation.") In his message to Congress in the same year, among other things concerning the Philippines, he said: "The Philippines are ours, not to exploit, but to develop, to civilize, to educate, to train in the science of self-government. This is the path of duty which we must follow or be recreant to a mighty trust committed to us." Dr. Schurman, President of the first Philippine Commission, construed the American policy to mean "ever increasing liberty and self-government . . . and it is the nature of such continuously expanding liberty to issue in independence."²

President Taft, while Civil Governor of the Philippine Islands, on the 17th of December, 1903, said: "From the beginning to the end of the state papers which were circulated in these Islands as authoritative expressions of the Executive, the motto that 'the Philippines are for the Filipinos' and that the Government of the United States is here for the purpose of preserving the 'Philippines for the Filipinos', for their benefit, for their elevation, for their civilization, again and again appear."

¹ See Kalaw, M. M., *The Case for the Filipinos*, chapters I, VII.

² *Philippine Affairs, A Retrospect and Outlook*, An Address by Jacob Gould Schurman, President of the First Philippine Commission, before the Members of Cornell University, pages 42, 90.

Whether an autonomy or independence or quasi independence shall ultimately follow in these Islands ought to depend solely on the question: Is it best for the Filipino people and their welfare?" When Mr. Taft was Secretary of War, in April, 1904, in the course of a speech upon the Philippines, he said: "When they (the Filipinos) have learned the principles of successful popular self-government from a gradually enlarged experience therein, we can discuss the question whether independence is what they desire and grant it, or whether they prefer the retention of a closer association with the country which, by its guidance, has unselfishly led them on to better conditions." In opening the Philippine Assembly on October 16th, 1907, Mr. Taft, then Secretary of War, said: "The policy looks to the improvement of the people, both industrially and in self-governing capacity. As this policy of extending control continues, it must logically reduce and finally end the sovereignty of the United States in the Islands, unless it shall seem wise to the American and the Filipino peoples, on account of mutually beneficial trade relations and possible advantages to the Islands in their foreign relations, that the bond shall not be completely severed."³

In 1908, after the Philippine Assembly had been opened, President Roosevelt, in his message to Congress, said: "I trust that within a generation the time will arrive when the Filipinos can decide for themselves whether it is well for them to become independent or to continue under the protection of a strong and disinterested power, able to guarantee to the Islands order at home and protection from foreign invasion."

President Wilson, in a message to the Filipino people delivered by Governor Harrison in Manila, October 6, 1913, said: "We regard ourselves as trustees acting not for the advantage of the United States but for the benefit of the people of the Philippine Islands. Every step we take will be taken with a view to the ultimate independence of the Islands and as a preparation for that independence." And in his message to Congress, on December 2, 1913, the President said: "By their counsel and experience, rather than by our own, we shall learn how best to serve them and how soon it will be possible and wise to withdraw our supervision."

³ Taft, *Present Day Problems*, page 13.

In 1911 the Democratic party, which had advocated independence, secured control of the American House of Representatives, and the following year the Chairman of the Committee on Insular Affairs, Congressman William Atkinson Jones, reported a bill providing for a qualified independence within eight years and for complete independence in 1921. In 1914 a bill was passed by the House of Representatives providing for independence as soon as a stable government could be established in the Islands. The bill, however, was crowded out of the calendar in the Senate and failed to be passed. The independence movement was constantly gaining ground, and two years afterwards, in February, 1916, when Congress again took up the Philippine question, the Senate passed the so-called Clarke Amendment, which would grant the Philippines independence within four years, although the time might be extended upon the advice of the President to Congress. It was contended in the House of Representatives, however, that it would be unwise to set a definite date for independence, for nobody knew what the situation would be at the time. What the House did was simply to repass the Jones bill it had passed in 1914. The Senate receded from its position and passed the House bill, which thus became the formal pledge of the American people to the Filipino people.⁴

**The Jones law
and its promise**

The title of the Jones law is "An Act to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those Islands." The declaration of purpose is contained in the following preamble:

"Whereas it was never the intention of the people of the United States in the incipency of the War with Spain to make it a war of conquest or for territorial aggrandizement; and

"Whereas it is, as it has always been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein; and

"Whereas it is, as it has always been, the purpose of the people of the United States to withdraw their sovereignty over

⁴ See pages 5, 6.

the Philippine Islands and to recognize their independence as soon as a stable government can be established therein; and

"Whereas, for the speedy accomplishment of such purpose it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States, in order that, by the use and exercise of popular franchise and governmental powers, they may be the better prepared to fully assume the responsibilities and enjoy all the privileges of complete independence: *Therefore* * * *"⁵

**Significance of
the Jones law in
Filipino-American
relations.**

The Jones Law was received by the Filipino people as the real pledge of the American people, for the other statements of American Presidents were mere executive opinion not necessarily binding on the United States.

For the first time in the history of American occupation was there an understanding reached between the two peoples. For the first time a legislative measure affecting Filipino-American relationship received Philippine sanction. The Philippine Legislature had time and again petitioned for the enactment of such a law. Resolution after resolution had been adopted by the Philippine Assembly asking for its passage if no more radical measure could be enacted. The Philippine Resident Commissioners had worked for the same thing. The Filipino people endorsed the measure in numerous public meetings and in resolutions passed by provincial boards and municipal councils.

American sovereignty in the Philippines has thus ceased to be without the consent of the governed. The Jones Law has become a virtual constitutional compact between the American and Filipino peoples, by means of which the Filipinos have accepted a temporary government under American sovereignty subject to the conditions; first, that it shall be autonomous, or chiefly in the hands of Filipinos; second, that American sovereignty shall not now be impaired; and third, that it shall be only preparatory to a complete independence, such independence to be granted "when a stable government can be established in the Islands." It is, to quote the words of its author, the late Congressman Jones, "the everlasting covenant of a great and gen-

⁵ For complete text of Jones Law, see Appendix:

erous people, speaking through their accredited representatives, that they (the Filipinos) shall in due time enjoy the incomparable blessings of liberty and freedom."⁶ "Henceforward," said the foremost spokesman of the Filipino people, Speaker Sergio Osmeña, to President Wilson upon the passage of the Jones Law, "we can look upon the American flag not as the symbol of an imposed government but as the emblem of a nation whose temporary guidance over the Filipino people will serve as an instrumentality for the most speedy assumption of the responsibility of an independent life."⁷

There are some people, however, who maintain that the preamble of the Jones Law has not bound the people of the United States to any definite line of action in favor of independence. They say that the preamble of any law is not a part thereof and hence not legally enforceable. In reply, it may be stated that no matter in what form the promise of independence may be made, either in a joint resolution or as a permanent provision of a law, it will always be up to the United States either to fulfill or violate it. Under no circumstances can the people of the Philippine Islands have any legal resort to the courts. We have seen that the status of the Philippines is different from that of any other state or organized territory of the United States. The United States government, thru its Congress, can do practically all it pleases with the Filipinos. The Federal Constitution, except one or two provisions of universal application, does not limit the power of Congress over the Islands; it did not, to use the common expression, "follow the flag to the Philippines." Supposing that Congress were to pass a law today to the effect that Philippine Independence will be granted on July 4, 1923, what will prevent the same Congress or another Congress from repealing that law tomorrow or a year from today? And even supposing that no repealing law is afterwards passed and Congress or the President still refuses to take the necessary steps to grant independence, irrespective of the promise, what legal resort will the Filipinos have? Nothing. The Filipinos are completely at the mercy of the United States

The force of the
preamble

⁶ Speech in the House of Representatives, August 18, 1916, Vol. 53, Congressional Record, page 12, 837.

⁷ See Kalaw, M. M., Self-Government in the Philippines, chapter 2.

Government. They rely on nothing but on the good faith of a great people. It is sufficient for our purpose that in some way or manner the Congress of the United States should state its intention to grant the Philippines independence. And for this purpose a preamble will do just as well as a resolution. There is one thing which is absolutely clear and is now a matter of history. On August 29, 1916, a law was passed by Congress the preamble of which states that it is the intention of the United States to grant independence to the Philippines as soon as a stable government could be established therein. That preamble had been voted separately by Congress and approved. It, therefore, represents the voice of the constitutional Representatives of the American people, speaking on their behalf. It is significant that all Americans, with very few exceptions, agree that it is a solemn promise. It is only a few who would want to argue on the technicality of the promise. That in itself is a very healthy sign.

Suspension of Independence agitation during the war.

After the passage of the Jones Law the Filipino people began the establishment of the stable government demanded by Congress as prerequisite to the granting of independence. Shortly afterwards the United States entered the war and immediately all agitation for independence ceased. It was deemed that such an attitude might embarrass the United States.

The Filipinos responded to the confidence reposed in them by the Government of the United States by themselves offering the service of 25,000 men. The Filipino people contributed a submarine and a destroyer to the fleet of the United States, and six thousand of their men served in the United States Navy as volunteers. Four thousand Filipinos in Hawaii, who could have claimed exemption from the draft under the citizenship clause of the draft law, insisted on being enrolled under the Stars and Stripes. With the limited resources of the Philippines, poor as the Filipino people are compared with the United States, with the aid of American residents in the Islands, they gave half a million dollars to Red Cross funds and subscribed nearly \$20,000,000 for Liberty Bonds. The Philippine allotment to the Third Liberty Loan was only \$3,000,000, but \$4,625,000 was subscribed. The allotment to the fourth Liberty Loan was \$6,000,000, but \$12,-

123,000 was subscribed. "No other American territory," said Governor-General Harrison "has been more loyal to the United States than the Philippines."⁸

Upon the ending of hostilities in Europe, the final adjustment of the Philippine independence question became the topic of political discussion in the Philippines. It was thought that the time had come, now that the United States had ended its war with Germany, to take up the Philippine question for its final and definite solution.

Renewal of agitation after the war.

The two political parties in the Philippines offered two distinct plans for the solution of the Philippine problem. The opposition party, the Democrata Party, would take the question directly to the Peace Conference. The majority party, the Nacionalista Party, however, was in favor of submitting the question first to the government of the United States and with this in view on November 7, 1918, it passed in the legislature a concurrent resolution creating a Commission of Independence for the purpose of considering and reporting to the legislature on the ways and means of negotiating the independence and the organization of a constitutional and democratic internal government.

In pursuance of the mandate of the Philippine Legislature to negotiate the terms of our independence, the Commission of Independence suggested, and the suggestion was approved by the Legislature, the sending of a Philippine Mission to the United States to make the necessary overtures for the negotiation of independence. To quote the instructions of the Commission of Independence, the duty of the Philippine Mission was "to convey to the government of the United States the frankest assurance and the good will, friendship and gratitude of the Filipino people and to submit with such respect and confidence the question of Philippine independence with the view of its final settlement."

That work was performed. The Philippine Mission was officially received by the Secretary of War and the Congressional committees of the United States, to whom it conveyed the message that the Filipino people have already performed their part of the covenant and that, therefore, the time had come for the recognition of Philippine independence.

⁸ See Kalaw, M. M., *Self-Government in the Philippines*, chapter IV.

**The declaration
of purposes**

On March 17, 1919, the Philippine Legislature passed the "Declaration of Purposes", which officially stated the attitude of the Filipino people on this vital problem. It was the authoritative voice of the Filipino people addressing the United States and the world.

What the Filipino people said in this "Declaration of Purposes" was briefly, that the time had come for the final and definite adjustment of the independence question. They reiterated their firm belief in the good faith of the American people in extending the blessings of self-government and holding out generous promises of independence. They referred to the Jones Law as a veritable pact, or covenant, entered into between the American and Filipino peoples whereby the United States promised to recognize the independence of the Philippines as soon as a stable government should be established in the Philippines. They then solemnly stated that they had already performed their part of the covenant with America, that there is now a stable government in the Philippines satisfying the conditions of stability required by the United States of other countries, and that, therefore, it was now for the American people to perform their part of the covenant.

"The Philippine question,"—the Declaration of Purposes read—"has reached such a stage that a full and final exchange of views between the United States of America and the Philippine Islands has become necessary. We need not repeat the declarations respecting the national aspirations of the Filipino people. Such declarations have been made from time to time in the most frank and solemn manner by the constitutional representatives of the Philippine Nation and are a matter of permanent record in public document covering more than a decade of persistent efforts particularly during the last three years. America, on her part, has been sufficiently explicit in her purposes from the beginning of her occupation of the Philippines . . .

"In applying the principles enunciated in documents and utterances on the Philippines to the conditions now existing in the Islands, the Independence Commission will find the following facts:

"That there exist at present in the Philippine Islands the conditions of order and government which America has for nearly

a century and a half required in all cases in which she has recognized the independence of a country or the establishment of a new government, not even excepting the case of General Huerta's government in Mexico which she refused to recognize because it was stained with blood and founded on intrigue, violence and crime;

"That there exist likewise in the Philippines all the conditions of stability and guaranties for law and order that Cuba had to establish to the satisfaction of America in order to obtain her independence, or to preserve it, during the military occupation of 1898-1903 and during the intervention of 1906-1909, respectively;

"That the 'preparation for independence' and the 'stable government' required by President Wilson and the Congress of the United States, respectively, contain no new requisite not included in any of the cases above cited;

"That these prerequisites for Philippine independence are the same as those virtually or expressly established by the Republican administrations that preceded President Wilson's administration;

"Therefore, so far as it is humanly possible to judge and say, we can see only one aim for the Independence Commission: Independence; and we can give only one instruction: to get it. Thus America, in adding another glory to her banner by establishing the first really democratic republic in the East will apply a second time, generously and freely, the same measure of humanity and justice that she applied in the case of Cuba."

The representative of the American government in the Philippines, who supervised the establishment of the government under the Jones Law, Governor-General Harrison, has concurred in the report of the Philippine Legislature as to a stable government. He reported to Congress thru the joint committees which heard the Philippine Mission, that there was already in the Philippine Islands the stable government demanded by Congress—"namely, a government elected by the suffrages of the people, which is supported by the people, which is capable of maintaining order and of fulfilling its international obligations."

**Certificates of
Governor Harrison
and President
Wilson**

President Wilson in his farewell message to Congress officially certified that the Filipino people have already performed the condition imposed upon them as a prerequisite to independence. He said:

"* * * Allow me to call your attention to the fact that the people of the Philippine Islands have succeeded in maintaining a stable government since the last action of the Congress in their behalf, and have thus fulfilled the condition set by the Congress as precedent to a consideration of granting independence to the islands.

"I respectfully submit that this condition precedent having been fulfilled, it is now our liberty and our duty to keep our promise to the people of those islands by granting them the independence which they so honorably covet."

**The Republican
party and the
Jones law**

The coming of the Republican Party does not alter the constitutional position of the Filipino people. The Republican Party is just as much responsible for the present independence policy as the Democratic Party.

While the Jones Law was passed during a Democratic administration, the fundamental policy it sets forth, the establishment of a stable government as a prerequisite to independence, is eminently a Republican policy. It was the condition imposed by Republican presidents upon the struggling peoples of South America. It was the policy of Presidents Grant and McKinley. It was President Grant who as early as 1875, expressed the idea that as soon as the Cuban people had set up a stable government their independence would be recognized. This policy was supported by President McKinley. When he urged Congress to declare war on Spain to liberate Cuba, he definitely stated that as soon as the Cuban people had established in the Island "a stable government, capable of maintaining order and observing its international obligations, insuring peace and tranquility and the security of the citizens as well as our own," Cuban independence would be recognized. The Cuban people were told by the Secretary of War, Root, thru the military governor, General Leonard Wood, to establish "a stable, orderly and free government"; and as soon as this was done, as soon as the Cuban people had elected its officers and established a government capable of maintaining order and fulfilling international obligations, then it was declared that there was a stable government in Cuba, and American sovereignty was withdrawn.

The Democrats simply adopted the Republican policy for the recognition of Cuban independence and applied it to the Philippines. The phrase "stable government" was first used in the Democratic platform in 1900, drafted by Mr. Bryan. That platform read in part as follows: "We favor an immediate declaration of the nation's purpose to give the Filipinos, first, a stable government; second, independence, and third, protection from outside interference." Mr. Bryan confessed that he just borrowed that policy from the Republican record in Cuba, and in accepting the nomination for the Presidency, he declared that if elected he would recommend to Congress the establishment of "a stable form of government in the Islands just as we are now establishing a stable form of government in Cuba" and the granting of independence "to the Filipinos as we have promised to give independence to the Cubans." That policy has been carried in practically every Democratic platform since 1900 until it was, with the help of the Republicans themselves, as we have seen, inserted in the Jones Law in 1916.^a

The Filipino people on the other hand remain firm in their decisive attitude on the Philippine question. Both political parties are committed to the immediate independence of the Philippines. The Declaration of Purposes has been ratified by the present legislature and hence it continues to be our official pronouncement.

Filipinos continue their decisive attitude

At no time since the extinction of our short-lived Republic have we as a nation taken a more decisive attitude than in the issuing of our Declaration of Purposes. Its only parallel in our history was seen when the Malolos government made its determination known to the American authority that the Filipino people would not accept the American flag and the American sovereignty unless their independence or their right to independence was recognized and safeguarded; that they would rather defy the might of the greatest Republic on earth rather than unconditionally submit to American domination. That the Malolos government voiced the sentiments and had the loyal and determined support of the entire people was proven by the three years of exasperating warfare that followed, a war which cost the Phil-

^a See Kalaw, M.M., *Self-Government in the Philippines*, chapter VIII.

ippine hundreds of thousands of lives, the devastation of fields and the misery of innumerable families—and the United States half a billion dollars.

Not that there is in our present demand even the shadow of the old war-like attitude which our fathers took. Everybody is now happy that the rancours of the past have gone. But just as the founders of our lost Republic presented an ultimatum to the American government to the effect that the Filipino people would not accept anything short of the recognition of their right to independence, so have our constitutional representatives of today, using the implements of peace and the more civilized means of discussion and arbitration, respectfully and in all friendship, upon the basis of a previous understanding, presented to the American people the desire of the Filipinos for the termination of their present political relationship with America. It is true that there have been in the past petitions and petitions for independence handed to the American people; that as soon as defeated in war the Filipino people resumed their peaceful pursuits, they have served notices to the American people that they have not forgotten their desire for independence. But they have not assumed the determined attitude that they have now taken based on the fulfillment of the understanding they had with America that as soon as a stable government could be established they would be granted their independence.

So, once again, the Filipino people are on trial before the world. They are to show how far they would go and how they would go about in the realization of their national purposes and aspirations. They are to prove or disprove that their plans and resolutions are not born of mere whims and caprices, of passing sentiment and bombastic nothingness, but are the fruit of a calm and deliberate reflection, the response to the call of destiny mapped out by the Supreme Arbiter of all nations.

APPENDIX

ORGANIC ACT FOR THE PHILIPPINE ISLANDS, COMMONLY KNOWN AS THE "JONES LAW."

[PUBLIC—No. 240—64TH CONGRESS.]

[S. 381.]

AN ACT TO DECLARE THE PURPOSE OF THE PEOPLE OF THE UNITED STATES AS TO THE FUTURE POLITICAL STATUS OF THE PEOPLE OF THE PHILIPPINE ISLANDS, AND TO PROVIDE A MORE AUTONOMOUS GOVERNMENT FOR THOSE ISLANDS.

Whereas it was never the intention of the people of the United States in the incipency of the War with Spain to make it a war of conquest or for territorial aggrandizement; and

Whereas it is, as it has always been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein; and

Whereas for the speedy accomplishment of such purpose it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States, in order that, by the use and exercise of popular franchise and governmental powers, they may be the better prepared to fully assume the responsibilities and enjoy all the privileges of complete independence: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act and the name "The Philippines" as used in this Act shall apply to and include the Philippine Islands ceded to the United States Government by the treaty of peace concluded between the United States and Spain on the eleventh day of April, eighteen hundred and ninety-nine, the boundaries of which are set forth in Article III of said treaty, together with those islands embraced in the treaty between Spain and the United States concluded at Washington on the seventh day of November, nineteen hundred.

SEC. 2. That all inhabitants of the Philippine Islands who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain, signed at Paris December tenth, eighteen hundred and ninety-eight, and except such others as have since become citizens of some other country: *Provided*, That the Philippine Legislature, herein provided for, is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of the insular possessions of the United States,

and such other persons residing in the Philippine Islands who are citizens of the United States, or who could become citizens of the United States under the laws of the United States if residing therein.

SEC. 3. That no law shall be enacted in said islands which shall deprive any person of life, liberty, or property without due process of law, or deny to any person therein the equal protection of the laws. Private property shall not be taken for public use without just compensation.

That in all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel, to demand the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to compel the attendance of witnesses in his behalf.

That no person shall be held to answer for a criminal offense without due process of law; and no person for the same offense shall be twice put in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself.

That all persons shall before conviction be bailable by sufficient sureties, except for capital offenses.

That no law impairing the obligation of contracts shall be enacted.

That no person shall be imprisoned for debt.

That the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion, insurrection, or invasion the public safety may require it, in either of which events the same may be suspended by the President, or by the Governor General, wherever during such period the necessity for such suspension shall exist.

That no ex post facto law or bill of attainder shall be enacted nor shall the law of primogeniture ever be in force in the Philippines.

That no law granting a title of nobility shall be enacted, and no person holding any office of profit or trust in said islands shall, without the consent of the Congress of the United States, accept any present, emolument, office, or title of any kind whatever from any king, queen, prince, or foreign State.

That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

That the right to be secured against unreasonable searches and seizures shall not be violated.

That slavery shall not exist in said islands; nor shall involuntary servitude exist therein except as a punishment for crime whereof the party shall have been duly convicted.

That no law shall be passed abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances.

That no law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed; and no religious test shall be required for the exercise of civil or political rights. No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such. Contracting of polygamous or plural marriages hereafter is prohibited. That no law shall be construed to permit polygamous or plural marriages.

That no money shall be paid out of the treasury except in pursuance of an appropriation by law.

That the rule of taxation in said islands shall be uniform,

That no bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill.

That no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

That all money collected on any tax levied or assessed for a special purpose shall be treated as a special fund in the treasury and paid out for such purpose only.

SEC. 4. That all expenses that may be incurred on account of the Government of the Philippines for salaries of officials and the conduct of their offices and departments, and all expenses and obligations contracted for the internal improvement or development of the islands, not, however, including defenses, barracks, and other works undertaken by the United States shall, except as otherwise specifically provided by the Congress, be paid by the Government of the Philippines.

SEC. 5. That the statutory laws of the United States hereafter enacted shall not apply to the Philippine Islands, except when they specifically so provide, or it is so provided in this Act.

SEC. 6. That the laws now in force in the Philippines shall continue in force and effect, except as altered, amended, or modified herein, until altered, amended, or repealed by the legislative authority herein provided or by Act of Congress of the United States.

SEC. 7. That the legislative authority herein provided shall have power, when not inconsistent with this Act, by due enactment to amend, alter, modify, or repeal any law, civil or criminal, continued in force by this Act as it may from time to time see fit.

This power shall specifically extend with the limitation herein provided as to the tariff to all laws relating to revenue and taxation in effect in the Philippines.

SEC. 8. That general legislative power, except as otherwise herein provided, is hereby granted to the Philippine Legislature, authorized by this Act.

SEC. 9. That all the property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain, signed December tenth, eighteen hundred and ninety-eight, except such land or other property as has been or shall be designated by the President of the United States for military and other reservations of the Government of the United States, and all lands which may have been subsequently acquired by the government of the Philippine Islands by purchase under the provisions of sections sixty-three and sixty-four of the Act of Congress approved July first, nineteen hundred and two, except such as may have heretofore been sold and disposed of in accordance with the provisions of said Act of Congress, are hereby placed under the control of the government of said islands to be administered or disposed of for the benefit of the inhabitants thereof, and the Philippine Legislature shall have power to legislate with respect to all such matters as it may deem advisable; but acts of the Philippine Legislature with reference to land of the public domain, timber, and mining, hereafter enacted, shall not have the force of law until approved by the President of the United States: *Provided*, That upon the approval of such an act by the Governor General, it shall be by him forthwith transmitted to the President of the United States, and he shall approve or disapprove the same within six months from and after its enactment and submission for his approval, and if not disapproved within such time it shall become a law the same as if it had been specifically approved: *Provided further*, That where lands in the Philippine Islands have been or may be reserved for any public purpose of the United States, and, being no longer required for the purpose for which reserved, have been or may be, by order of the President, placed under the control of the government of said islands to be administered for the benefit of the inhabitants thereof, the order of the President shall be regarded as effectual to give the government of said islands full control and power to administer and dispose of such lands for the benefit of the inhabitants of said islands.

SEC. 10. That while this Act provides that the Philippine government shall have the authority to enact a tariff law the trade relations between the islands and the United States shall continue to be governed exclusively by

laws of the Congress of the United States: *Provided*, That tariff acts or acts amendatory to the tariff of the Philippine Islands shall not become law until they shall receive the approval of the President of the United States, nor shall any act of the Philippine Legislature affecting immigration or the currency or coinage laws of the Philippines become a law until it has been approved by the President of the United States: *Provided further*, That the President shall approve or disapprove any act mentioned in the foregoing proviso within six months from and after its enactment and submission for his approval, and if not disapproved within such time it shall become a law the same as if it had been specifically approved.

SEC. 11. That no export duties shall be levied or collected on exports from the Philippine Islands, but taxes and assessments on property and license fees for franchises, and privileges, and internal taxes, direct or indirect, may be imposed for the purposes of the Philippine government and the provincial and municipal governments thereof, respectively, as may be provided and defined by acts of the Philippine Legislature, and, where necessary to anticipate taxes and revenues, bonds and other obligations may be issued by the Philippine government or any provincial or municipal government therein, as may be provided by law and to protect the public credit: *Provided, however*, That the entire indebtedness of the Philippine government created by the authority conferred therein shall not exceed at any one time the sum of \$15,000,000, exclusive of those obligations known as friar land bonds, nor that of any province or municipality a sum in excess of seven per centum of the aggregate tax valuation of its property at any one time.

SEC. 12. That general legislative powers in the Philippines, except as herein otherwise provided, shall be vested in a legislature which shall consist of two houses, one the senate and the other the house of representatives, and the two houses shall be designated "The Philippine Legislature": *Provided* That until the Philippine Legislature as herein provided shall have been organized the existing Philippine Legislature shall have all legislative authority herein granted to the government of the Philippine Islands, except such as may now be within the exclusive jurisdiction of the Philippine Commission, which is so continued until the organization of the legislature herein provided for the Philippines. When the Philippine Legislature shall have been organized, the exclusive legislative jurisdiction and authority exercised by the Philippine Commission shall thereafter be exercised by the Philippine Legislature.

SEC. 13. That the members of the senate of the Philippines, except as herein provided, shall be elected for terms of six and three years, as hereinafter provided, by the qualified electors of the Philippines. Each of the senatorial districts defined as hereinafter provided shall have the right to elect two senators. No person shall be an elective member of the senate of the Philippines who is not a qualified elector and over thirty years of age, and who is not able to read and write either the Spanish or English language, and who has not been a resident of the Philippines for at least two consecutive years and an actual resident of the senatorial district from which chosen for a period of at least one year immediately prior to his election.

SEC. 14. That the members of the house of representatives shall, except as herein provided, be elected triennially by the qualified electors of the Philippines. Each of the representative districts hereinafter provided for shall have the right to elect one representative. No person shall be an elective member of the house of representatives who is not a qualified elector and over twenty-five years of age, and who is not able to read and write either the Spanish or English language, and who has not been an actual resident of the district from which elected for at least one year immediately prior to his election: *Provided*, That the members of the present assembly elected on the first Tuesday in June, nineteen hundred and sixteen, shall be the members of the house of representatives from their respective districts for the term expiring in nineteen hundred and nineteen.

SEC. 15. That at the first election held pursuant to this act, the qualified electors shall be those having the qualifications of voters under the present law; thereafter and until otherwise provided by the Philippine Legislature herein provided for the qualifications of voters for senators and representatives in the Philippines and all officers elected by the people shall be as follows:

Every male person who is not a citizen or subject of a foreign power twenty-one years of age or over (except insane and feeble-minded persons and those convicted in a court of competent jurisdiction of an infamous offense since the thirteenth day of August, eighteen hundred and ninety-eight), who shall have been a resident of the Philippines for one year and of the municipality in which he shall offer to vote for six months next preceding the day of voting, and who is comprised within one of the following classes:

(a) Those who under existing law are legal voters and have exercised the right of suffrage.

(b) Those who own real property to the value of 500 pesos, or who annually pay 30 pesos or more of the established taxes.

(c) Those who are able to read and write either Spanish, English, or a native language.

SEC. 16. That the Philippine Islands shall be divided into twelve senate districts, as follows:

First district: Batanes, Cagayan, Isabela, Ilocos Norte, and Ilocos Sur.

Second district: La Union, Pangasinan, and Zambales.

Third district: Tarlac, Nueva Ecija, Pampanga, and Bulacan.

Fourth district: Bataan, Rizal, Manila, and Laguna.

Fifth district: Batangas, Mindoro, Tayabas, and Cavite.

Sixth district: Sorsogon, Albay, and Ambos Camarines.

Seventh district: Iloilo and Capiz.

Eighth district: Negros Occidental, Negros Oriental, Antique, and Palawan.

Ninth district: Leyte and Samar.

Tenth district: Cebu.

Eleventh district: Surigao, Misamis, and Bohol.

Twelfth district: The Mountain Province, Baguio, Nueva Vizcaya, and the Department of Mindanao and Sulu.

The representative districts shall be the eighty-one now provided by law, and three in the Mountain Province, one in Nueva Vizcaya, and five in the Department of Mindanao and Sulu.

The first election under the provisions of this Act shall be held on the first Tuesday of October, nineteen hundred and sixteen, unless the Governor-General in his discretion shall fix another date not earlier than thirty nor later than sixty days after the passage of this Act: *Provided*, That the Governor-General's proclamation shall be published at least thirty days prior to the date fixed for the election, and there shall be chosen at such election one senator from each senate district for a term of three years and one for six years. Thereafter one senator from each district shall be elected from each senate district for a term of six years: *Provided*, That the Governor-General of the Philippine Islands shall appoint, without the consent of the senate and without restriction as to residence, senators and representatives who will, in his opinion, best represent the senate district and those representative districts which may be included in the territory not now represented in the Philippine Assembly: *Provided further*, That thereafter elections shall be held only on such days and under such regulations as to ballots, voting, and qualifications of electors as may be prescribed by the Philippine Legislature, to which is hereby given authority to redistrict the Philippine Islands and modify, amend, or repeal any provision of this action, except such as refer to appointive senators and representatives.

SEC. 17. That the terms of office of elective senators and representatives shall be six and three years, respectively, and shall begin on the date of their election. In case of vacancy among the elective members of the senate or in

the house of representatives, special elections may be held in the districts wherein such vacancy occurred under such regulations as may be prescribed by law, but senators or representatives elected in such cases shall hold office only for the unexpired portion of the term wherein the vacancy occurred. Senators and representatives appointed by the Governor-General shall hold office until removed by the Governor-General.

SEC. 18. That the senate and house of representatives, respectively, shall be the sole judges of the elections, returns, and qualifications of their elective members, and each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel an elective member. Both houses shall convene at the capital on the sixteenth day of October next following the election and organize by the election of a speaker or a presiding officer, a clerk, and a sergeant at arms for each house, and such other officers and assistants as may be required. A majority of each house shall constitute a quorum to do business, but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. The legislature shall hold annual sessions, commencing on the sixteenth day of October, or, if the sixteenth day of October be a legal holiday, then on the first day following which is not a legal holiday, in each year. The legislature may be called in special session at any time by the Governor-General for general legislation, or for action on such specific subjects as he may designate. No special session shall continue longer than thirty days, and no regular session shall continue longer than one hundred days, exclusive of Sundays. The legislature is hereby given the power and authority to change the date of the commencement of its annual sessions.

The senators and representatives shall receive an annual compensation for their services, to be ascertained by law, and paid out of the treasury of the Philippine Islands. The senators and representatives shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he may have been elected, be eligible to any office the election to which is vested in the legislature, nor shall be appointed to any office of trust or profit which shall have been created or the emoluments of which shall have been increased during such term.

SEC. 19. That each house of the legislature shall keep a journal of its proceedings and, from time to time, publish the same; and the yeas and nays of the members of either house, on any question, shall, upon demand of one-fifth of those present, be entered on the journal, and every bill and joint resolution which shall have passed both houses shall, before it becomes a law, be presented to the Governor-General. If he approve the same, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated, which shall enter the objections at large on its journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house shall agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house it shall be sent to the Governor-General, who, in case he shall then not approve, shall transmit the same to the President of the United States. The vote of each house shall be by the yeas and nays, and the names of the members voting for and against shall be entered on the journal. If the President of the United States approve the same, he shall sign it and it shall become a law. If he shall not approve same, he shall return it to the Governor-General, so stating, and it shall not become a law: *Provided*, That if any bill or joint resolution shall not be returned by the Governor-General as herein provided within twenty days (Sundays excepted) after it shall have been presented to him the same shall become a law in like manner as if he had signed it, unless

the legislature by adjournment prevent its return, in which case it shall become a law unless vetoed by the Governor-General within thirty days after adjournment: *Provided further*, That the President of the United States shall approve or disapprove an act submitted to him under the provisions of this section within six months from and after its enactment and submission for his approval; and if not approved within such time, it shall become a law the same as if it had been specifically approved. The Governor-General shall have the power to veto any particular item or items of an appropriation bill, but the veto shall not affect the item or items to which he does not object. The item or items objected to shall not take effect except in the manner heretofore provided in this section as to bills and joint resolutions returned to the legislature without his approval.

All laws enacted by the Philippine Legislature shall be reported to the Congress of the United States, which hereby reserves the power and authority to annul the same. If at the termination of any fiscal year the appropriations necessary for the support of the government for the ensuing fiscal year shall not have been made, the several sums appropriated in the last appropriation bills for the objects and purposes therein specified, so far as the same may be done, shall be deemed to be reappropriated for the several objects and purposes specified in said last appropriation bill; and until the legislature shall act in such behalf the treasurer shall, when so directed by the Governor-General, make the payments necessary for the purposes aforesaid.

SEC. 20. That at the first meeting of the Philippine Legislature created by this Act and triennially thereafter there shall be chosen by the legislature two Resident Commissioners to the United States, who shall hold their office for a term of three years beginning with the fourth day of March following their election, and who shall be entitled to an official recognition as such by all departments upon presentation to the President of a certificate of election by the Governor-General of said islands. Each of said Resident Commissioners shall, in addition to the salary and the sum in lieu of mileage now allowed by law, be allowed the same sum for stationery and for the pay of necessary clerk hire as is now allowed to the Members of the House of Representatives of the United States, to be paid out of the Treasury of the United States, and the franking privilege allowed by law to Members of Congress. No person shall be eligible to election as Resident Commissioner who is not a bona fide elector of said islands and who does not owe allegiance to the United States and who is not more than thirty years of age and who does not read and write the English language. The present two Resident Commissioners shall hold office until the fourth of March, nineteen hundred and seventeen. In case of vacancy in the position of Resident Commissioner caused by resignation or otherwise, the Governor-General may make temporary appointments until the next meeting of the Philippine Legislature, which shall then fill such vacancy; but the Resident Commissioner thus elected shall hold office only for the unexpired portion of the term wherein the vacancy occurred.

SEC. 21. That the supreme executive power shall be vested in an executive officer, whose official title shall be "The Governor-General of the Philippine Islands." He shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and hold his office at the pleasure of the President and until his successor is chosen and qualified. The Governor-General shall reside in the Philippine Islands during his official incumbency, and maintain his office at the seat of government. He shall, unless otherwise herein provided, appoint, by and with the consent of the Philippine Senate, such officers as may now be appointed by the Governor-General, or such as he is authorized by this Act to appoint, or whom he may hereafter be authorized by law to appoint; but appointments made while the senate is not in session shall be effective either until disapproval or until the next adjournment of the senate. He shall have general supervision and control of all of the departments and bureaus of the government in the Philippine Islands as far as is not inconsistent with the provisions of this Act

and shall be commander in chief of all locally created armed forces and militia. He is hereby vested with the exclusive power to grant pardons and reprieves and remit fines and forfeitures, and may veto any legislation enacted as herein provided. He shall submit within ten days of the opening of each regular session of the Philippine Legislature a budget of receipts and expenditures, which shall be the basis of the annual appropriation bill. He shall commission all officers that he may be authorized to appoint. He shall be responsible for the faithful execution of the laws of the Philippine Islands and of the United States operative within the Philippine Islands, and whenever it becomes necessary he may call upon the commanders of the military and naval forces of the United States in the islands, or summon the posse comitatus or call out the militia or other locally created armed forces, to prevent or suppress lawless violence, invasion, insurrection, or rebellion; and he may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, suspend the privileges of the writ of habeas corpus, or place the islands, or any part thereof, under martial law: *Provided*, That whenever the Governor-General shall exercise this authority, he shall at once notify the President of the United States thereof, together with the attending facts and circumstances, and the President shall have power to modify or vacate the action of the Governor-General. He shall annually and at such other times as he may be required make such official report of the transactions of the government of the Philippine Islands to an executive department of the United States to be designated by the President, and his said annual report shall be transmitted to the Congress of the United States; and he shall perform such additional duties and functions as may in pursuance of law be delegated or assigned to him by the President.

SEC. 22. That, except as provided otherwise in this Act, the executive departments of the Philippine government shall continue as now authorized by law until otherwise provided by the Philippine Legislature. When the Philippine Legislature herein provided shall convene and organize, the Philippine Commission, as such, shall cease and determine, and the members thereof shall vacate their offices as members of said commission: *Provided*, That the heads of executive departments shall continue to exercise their executive functions until the heads of departments provided by the Philippine Legislature pursuant to the provisions of this Act are appointed and qualified. The Philippine Legislature may thereafter by appropriate legislation increase the number or abolish any of the executive departments, or make such changes in the names and duties thereof as it may see fit, and shall provide for the appointment and removal of the heads of the executive departments by the Governor-General: *Provided*, That all executive functions of the government must be directly under the Governor-General or within one of the executive departments under the supervision and control of the Governor-General. There is hereby established a bureau, to be known as the Bureau of Non-Christian tribes, which said bureau shall be embraced in one of the executive departments to be designated by the Governor-General, and shall have general supervision over the public affairs of the inhabitants of the territory represented in the legislature by appointive senators and representatives.

SEC. 23. That there shall be appointed by the President, by and with the advice and consent of the Senate of the United States, a vice-governor of the Philippine Islands, who shall have all of the powers of the Governor-General in the case of a vacancy or temporary removal, resignation, or disability of the Governor-General, or in case of his temporary absence; and the said vice-governor shall be the head of the executive department, known as the department of public instruction, which shall include the bureau of education and the bureau of health, and he may be assigned such other executive duties as the Governor-General may designate.

Other bureaus now included in the department of public instruction shall, until otherwise provided by the Philippine Legislature, be included in the department of the interior.

The President may designate the head of an executive department of the Philippine government to act as Governor General in the case of a vacancy, the temporary removal, resignation, or disability of the Governor-General and the vice-governor, or their temporary absence, and the head of the department thus designated shall exercise all the powers and perform all the duties of the Governor-General during such vacancy, disability, or absence.

SEC. 24. That there shall be appointed by the President an auditor, who shall examine, audit, and settle all accounts pertaining to the revenues and receipts from whatever source of the Philippine government and of the provincial and municipal governments of the Philippines, including trust funds and funds derived from bond issues; and audit, in accordance with law and administrative regulations, all expenditures of funds or property pertaining to or held in trust by the government or the provinces or municipalities thereof. He shall perform a like duty with respect to all government branches.

He shall keep the general accounts of the government and preserve the vouchers pertaining thereto.

It shall be the duty of the auditor to bring to the attention of the proper administrative officer expenditures of funds or property which, in his opinion, are irregular, unnecessary, excessive, or extravagant.

There shall be a deputy auditor appointed in the same manner as the auditor. The deputy auditor shall sign such official papers as the auditor may designate and perform such other duties as the auditor may prescribe, and in case of the death, resignation, sickness, or other absence of the auditor from his office, from any cause, the deputy auditor shall have charge of such office. In case of the absence from duty, from any cause, of both the auditor and the deputy auditor, the Governor-General may designate an assistant, who shall have charge of the office.

The administrative jurisdiction of the auditor over accounts, whether of funds or property, and all vouchers and records pertaining thereto, shall be exclusive. With the approval of the Governor-General he shall from time to time make and promulgate general or special rules and regulations not inconsistent with law covering the method of accounting for public funds and property, and funds and property held in trust by the government or any of its branches: *Provided*, That any officer accountable for public funds or property may require such additional reports or returns from his subordinates or others as he may deem necessary for his own information and protection.

The decisions of the auditor shall be final and conclusive upon the executive branches of the government, except that appeal therefrom may be taken by the party aggrieved or the head of the department concerned within one year, in the manner hereinafter prescribed. The auditor shall, except as hereinafter provided, have like authority as that conferred by law upon the several auditors of the United States and the Comptroller of the United States Treasury and is authorized to communicate directly with any person having claims before him for settlement, or with any department, officer, or person having official relations with his office.

As soon after the close of each fiscal year as the accounts of said year may be examined and adjusted the auditor shall submit to the Governor-General and the Secretary of War an annual report of the fiscal concerns of the government, showing the receipts and disbursements of the various departments and bureaus of the government and of the various provinces and municipalities, and make such other reports as may be required of him by the Governor-General or the Secretary of War.

In the execution of their duties the auditor and the deputy auditor are authorized to summon witnesses, administer oaths, and to take evidence, and, in the pursuance of these provisions, may issue subpoenas and enforce the attendance of witnesses, as now provided by law.

The office of the auditor shall be under the general supervision of the Governor-General and shall consist of the auditor and deputy auditor and such necessary assistants as may be prescribed by law.

SEC. 25. That any person aggrieved by the action or decision of the auditor in the settlement of his account or claim may, within one year, take an appeal in writing to the Governor-General, which appeal shall specifically set forth the particular action of the auditor to which exception is taken, with the reason and authorities relied on for reversing such decision.

If the Governor-General shall confirm the action of the auditor, he shall so indorse the appeal and transmit it to the auditor, and the action shall thereupon be final and conclusive. Should the Governor-General fail to sustain the action of the auditor, he shall forthwith transmit his grounds of disapproval to the Secretary of War, together with the appeal and the papers necessary to a proper understanding of the matter. The decision of the Secretary of War in such case shall be final and conclusive.

SEC. 26. That the supreme court and the courts of first instance of the Philippine Islands shall possess and exercise jurisdiction as heretofore provided and such additional jurisdiction as shall hereafter be prescribed by law. The municipal courts of said islands shall possess and exercise jurisdiction as now provided by law, subject in all matters to such alteration and amendment as may be hereafter enacted by law; and the chief justice and associate justices of the supreme court shall hereafter be appointed by the President, by and with the advice and consent of the Senate of the United States. The judges of the court of first instance shall be appointed by the Governor-General, by and with the advice and consent of the Philippine Senate: *Provided*, That the admiralty jurisdiction of the supreme court and courts of first instance shall not be changed except by Act of Congress. That in all cases pending under the operation of existing laws, both criminal and civil, the jurisdiction shall continue until final judgment and determination.

SEC. 27. That the Supreme Court of the United States shall have jurisdiction to review, revise, reverse, modify, or affirm the final judgments and decrees of the Supreme Court of the Philippine Islands in all actions, cases, causes, and proceedings now pending therein or hereafter determined thereby in which the Constitution or any statute, treaty, title, right, or privilege of the United States is involved, or in causes in which the value in controversy exceeds \$25,000, or in which the title or possession of real estate exceeding in value the sum of \$25,000, to be ascertained by the oath of either party or of other competent witnesses, is involved or brought in question; and such final judgments or decrees may and can be reviewed, revised, reversed, modified, or affirmed by said Supreme Court of the United States on appeal or writ of error by the party aggrieved within the same time, in the same manner, under the same regulations, and by the same procedure, as far applicable, as the final judgments and decrees of the district courts of the United States.

SEC. 28. That the government of the Philippine Islands may grant franchises and rights, including the authority to exercise the right of eminent domain, for the construction and operation of works of public utility and service, and may authorize said works to be constructed and maintained over and across the public property of the United States, including streets, highways, squares, and reservations, and over similar property of the government of said islands, and may adopt rules and regulations under which the provincial and municipal governments of the islands may grant the right to use and occupy such public property belonging to said provinces or municipalities: *Provided*, That no private property shall be damaged or taken for any purpose under this section without just compensation, and that such authority to take and occupy land shall not authorize the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which the franchise is granted, and that no franchise or right shall be granted to any individual, firm, or corporation except under the conditions that it shall be subject to amendment, alteration, or repeal by the Congress of the United States, and that lands or right of use and occupation of lands thus granted shall revert to the governments by which they were respectively granted upon the termination of the franchises and rights under which they were granted or upon their

revocation or repeal. That all franchises or rights granted under this Act shall forbid the issue of stock or bonds except in exchange for actual cash or for property at a fair valuation equal to the par value of the stock or bonds so issued; shall forbid the declaring of stock or bond dividends, and, in the case of public-service corporations, shall provide for the effective regulation of the charges thereof, for the official inspection and regulation of the books and accounts of such corporations, and for the payment of a reasonable percentage of gross earnings into the treasury of the Philippine Islands or of the province or municipality within which such franchises are granted and exercised: *Provided further*, That it shall be unlawful for any corporation organized under this Act, or for any person, company, or corporation receiving any grant, franchise, or concession from the government of said islands, to use, employ, or contract for the labor of persons held in involuntary servitude; and any person, company, or corporation so violating the provisions of this Act shall forfeit all charters, grants, or franchises for doing business in said islands, in an action or proceeding brought for that purpose in any court of competent jurisdiction by any officer of the Philippine government, or on the complaint of any citizen of the Philippines, under such regulations and rules as the Philippine Legislature shall prescribe, and in addition shall be deemed guilty of an offense, and shall be punished by a fine of not more than \$10,000.

SEC. 29. That, except as in this Act otherwise provided, the salaries of all the officials of the Philippines not appointed by the President, including deputies, assistants, and other employees, shall be such and be so paid out of the revenues of the Philippines as shall from time to time be determined by the Philippine Legislature; and if the legislature shall fail to make an appropriation for such salaries, the salaries so fixed shall be paid without the necessity of further appropriations therefor. The salaries of all officers and all expenses of the offices of the various officials of the Philippines appointed as herein provided by the President shall also be paid out of the revenues of the Philippines. The annual salaries of the following-named officials appointed by the President and so to be paid shall be: The Governor-General \$18,000; in addition thereto he shall be entitled to the occupancy of the buildings heretofore used by the chief executive of the Philippines, with the furniture and effects therein, free of rental; vice-governor, \$10,000; chief justice of the supreme court, \$8,000; associate justices of the supreme court, \$7,500 each; auditor \$6,000; deputy auditor, \$3,000.

SEC. 30. That the provisions of the foregoing section shall not apply to provincial and municipal officials; their salaries and the compensation of their deputies, assistants, and other help, as well as all other expenses incurred by the provinces and municipalities, shall be paid out of the provincial and municipal revenues in such manner as the Philippine Legislature shall provide.

SEC. 31. That all laws or parts of laws applicable to the Philippines not in conflict with any of the provisions of this Act are hereby continued in force and effect.

Approved, August 29, 1916.

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